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Canada. Parliament.

Special Joint committee on Employer-
employee relations in the Public
Service of Canada.

Minutes of proceedings of
evidence. 1966-67, no. 1-34.



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First Session—Twenty-seventh Parliament

1966 -67

PROCEEDINGS OF
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1 -34

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

WEDNESDAY, JUNE 15, 1966

FRIDAY JUNE 17, 1966

WITNESSES:

From the Department of National Revenue: The Hon. E. J. Benson, Minister; From the Treasury Board: Mr. G. F. Davidson, Secretary; From the Department of Finance: Mr. H. Clark, Director of Pensions and Social Insurance Division; From the Department of Insurance: Mr. E. E. Clarke; From the Department of National Defence: Brig. W. J. Dawson, Judge Advocate General; Group Captain H. A. McLearn, Deputy Judge Advocate General.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard
and

Representing the Senate
Senators

Representing the House of Commons

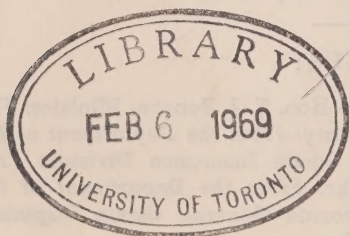
Mr. Beaubien (<i>Bedford</i>), ³	Mr. Aiken,	Mr. Lachance,
¹ Mr. Blois,	Mr. Ballard,	Mr. Leboe,
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	Mr. Lewis,
Mr. Choquette,	Mr. Caron,	⁴ Mr. MacRae,
Mr. Croll,	Mr. Chatterton,	Mr. McCleave,
Mr. Davey,	Mr. Crossman,	Mr. Munro,
Mr. Deschatelets,	Mr. Émard,	Mr. Orange,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Ricard,
Mr. Hastings,	Mr. Hymmen,	Mr. Rinfret,
Mr. Roebuck,	Mr. Isabelle,	Mr. Tardif,
² Mr. Yuzyk—(12).	Mr. Keays,	Mr. Walker—(24).
	Mr. Knowles,	

¹Replaced by Senator O'Leary (*Antigonish-Guysborough*), June 16, 1966.

²Replaced by Senator Quart, June 16, 1966.

³Replaced by Mrs. Wadds, June 8, 1966.

⁴Replaced by Mr. Fairweather, June 16, 1966.



Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

Extracts from minutes of proceedings of the Senate, Thursday, June 16, 1966.

That the Senate do unite with the House of Commons in the appointment of a Joint Committee of both Houses of Parliament to enquire into and report upon a measure respecting employer and employee relations in the Public Service of Canada and upon such other related legislation as may be referred to it by either House;

That the Senate designate twelve Members of the Senate to be members of the Joint Committee, namely the Honourable Senators Beaubien (*Bedford*), Blois, Bourget, Cameron, Choquette, Croll, Davey, Deschatelets, Fergusson, Hastings, Roebuck and Yuzyk;

That the Joint Committee have power to call for persons, papers and records and examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be deemed advisable and to sit during sittings and adjournments of the Senate.

That the names of the Honourable Senators O'Leary (*Antigonish-Guysborough*) and Quart be substituted for those of the Honourable Senators Blois and Yuzyk on the list of Senators appointed to serve on the Special Joint Committee of the Senate and House of Commons on the Public Service.

J. F. MacNEILL,
Clerk of the Senate.

MONDAY, April 25, 1966.

Resolved,—That a Joint Committee of the Senate and House of Commons be appointed to enquire into and report upon a measure respecting employer and employee relations in the Public Service of Canada and upon such other related legislation as may be referred to it by either House; that twenty-four members of the House of Commons, to be designated at a later date, be members of the joint committee, and that standing order 67(1) of the House of Commons be suspended in relation thereto; that the said committee have power to call for persons, papers and records and examine witnesses; to report from time to time and to print such papers and evidence from day to day as may be deemed advisable and that standing order 66 be suspended in relation thereto; and that a message be sent to the Senate requesting that House to unite with this House for the above purpose, and to select, if the Senate deems it advisable some of its members to act on the proposed joint committee.

TUESDAY, June 7, 1966.

Ordered,—That the Members of the House of Commons on the Joint Committee of the Senate and the House of Commons to introduce a measure to provide for the establishment of a system of collective bargaining, approved April 25, 1966, by Messrs. Aiken, Ballard, Bell (*Carleton*), Caron, Chatterton, Crossman, Émard, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Leboe, Lewis, MacRae, McCleave, Munro, Orange, Ricard, Richard, Rinfret Tardif and Walker.

WEDNESDAY, June 8, 1966.

Ordered,—That the name of Mrs. Wadds be substituted for that of Mr. Aiken on the Special Joint Committee on the Public Service.

MONDAY, June 13, 1966.

Ordered,—That Bill C-193, An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act be referred to the Special Joint Committee on the Public Service; and

That the said Committee report the bill back to the House on or before Thursday, June 23rd next.

WEDNESDAY, June 15, 1966.

Ordered,—That the quorum of the Special Joint Committee on the Public Service be fixed at ten (10) members, provided that both Houses are represented, during consideration of Bill C-193.

Ordered,—That the House of Commons section of the Special Joint Committee on the Public Service be granted leave to sit while the House is sitting, during consideration of Bill C-193.

THURSDAY, June 16, 1966.

Ordered,—That the name of Mr. Fairweather be substituted for that of Mr. MacRae on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

REPORT TO THE SENATE

WEDNESDAY, June 15th, 1966.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its first Report, as follows:

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented, during enquiry into Bill C-193, intituled: "Statute Law (Superannuation) Amendment Act, 1966".

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

(Concurred in, June 16, 1966)

REPORTS TO THE HOUSE

JUNE 15, 1966.

FIRST REPORT

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented, during consideration of Bill C-193.

(Concurred in, June 15, 1966)

JUNE 15, 1966.

SECOND REPORT

Your Committee recommends that the House of Commons section be granted leave to sit while the House is sitting, during consideration of Bill C-193.

Respectfully submitted,

JEAN-T. RICHARD,
Joint-Chairman.

(Concurred in, June 15, 1966)

MINUTES OF PROCEEDINGS

WEDNESDAY, June 15, 1966.

(1)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 2.15 p.m. this day for organization purposes.

Members present: Representing the Senate: Honourable Senators Blois, Bourget, Choquette, Croll, Davey, Fergusson, Roebuck (7).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Caron, Emard, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Leboe, McCleave, Ricard, Richard, Tardif, Walker (16).

The Clerk of the Committee presided over the election of the respective Chairman from the Senate and the House of Commons sections.

Moved by the Hon. Senator Fergusson, seconded by the Hon. Senator Davey,

Resolved,—That the Hon. Senator M. Bourget be the Chairman from the Senate section of this Special Joint Committee.

Moved by Mr. Bell (*Carleton*), seconded by Mr. Knowles,

Resolved,—That Mr. Jean T. Richard be the Chairman from the House of Commons section of this Special Joint Committee.

The Clerk of the Committee, having declared the Hon. Senator Bourget and Mr. Richard duly elected as Joint Chairmen, turned the meeting over those gentlemen.

On a motion of Mr. McCleave, seconded by Mr. Faulkner, the Committee agreed to seek permission to reduce its quorum to (10) during consideration of Bill C-193, provided that both Houses are represented.

Mr. Knowles moved, seconded by Mr. Walker, that the Committee be authorized to sit while the House is sitting for the period that Bill C-193 is before the Committee.

On a motion of Mr. Bell (*Carleton*), seconded by Mr. Lachance, the Committee authorized the printing of 1500 copies of the English version of the Minutes of Proceedings and Evidence, and 750 French copies.

The Committee agreed that briefs to be presented dealing with the Bills referred to it (other than C-193) must be in the hands of members one week before the appearance of the organization submitting said brief. Furthermore, the briefs are to be submitted in English and French.

The Committee agreed to the establishment of a Subcommittee on Agenda and Procedure comprising the Joint Chairmen, two Senators and six Members to be selected by the Chairmen in consultation with the Whips.

At 2.30 p.m., the meeting was adjourned to Friday, June 17, 1966, at 9.30 a.m.

FRIDAY, June 17, 1966.

(2)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 9.35 a.m. this day, the Joint Chairmen, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: Honourable Senators Bourget, Choquette, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart (6).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Caron, Chatterton, Émard, Hymmen, Keays, Knowles, Lachance, Leboe, McCleave, Orange, Richard, Rinfret, Tardif, Walker (16).

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board, Dr. G. F. Davidson, Secretary of the Treasury Board and Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Joint Chairman, Mr. Richard, invited the Honourable E. J. Benson, Minister of National Revenue, to make a statement on the subject of Bill C-193.

The Committee questioned the Minister, Dr. Davidson and Mr. Clark on the details of Bill C-193.

The representative from the Department of Finance undertook to provide the Committee with a written statement covering the effect of this bill on the other seven.

On a motion of the Hon. Senator Fergusson, seconded by Mr. Leboe, the following tables were accepted as part of this day's proceedings:

Example of application of integration formula to an illustration explained to the Special Joint Committee of the Senate and House of Commons examining the Canada Pension Plan. (*See Appendix A*)

Examples of application of integration formula. (*See Appendix B*)

Diplomatic Services (Special) Superannuation Act. (*See Appendix C*)

The Committee agreed to the names of the members selected by the Joint Chairmen for the Subcommittee on Agenda and Procedure, viz: Hon. Senators Bourget, Croll and O'Leary (*Antigonish-Guysborough*), Messrs. Richard, Bell (*Carleton*), Knowles and Leboe.

At 11.00 a.m., the meeting adjourned to 2.30 p.m. this day.

AFTERNOON SITTING

(3)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 2.33 p.m. this day, the Joint Chairmen, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The Hon. Senators Bourget, Choquette, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*) (5).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Chatterton, Hymmen, Isabelle, Keays, Knowles, Leboe, McCleave, Orange, Richard, Rinfret, Tardif, Walker (14).

In attendance: Same as at morning sitting, and Mr. E. E. Clarke, Chief Actuary, Insurance Department; Brig. W. J. Lawson, Judge Advocate General, and G/C H. A. McLearn of the Department of National Defence.

The Committee resumed questioning of the witnesses on the subject of Bill C-193 and requested that the representative of the Department of Finance provide a copy of an agreement covering the portability aspect of the Bill (*See Appendix D*) and a list of employer groups who have signed such agreements with the Federal Government (*See Appendix E*).

The meeting adjourned at 4.25 p.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

OTTAWA, Friday, June 17, 1966

The Co-CHAIRMAN (Mr. Richard): Honourable senators and members of the House of Commons, this is our first regular meeting to deal with Bill C-193. As you were advised on Wednesday last, the first witness to appear before us is the Minister of National Revenue, the Honourable E. J. Benson. I will ask him to appear before the committee now to give us a statement in explanation of this bill.

Honourable E. J. Benson, Minister of National Revenue: Gentlemen, first of all, I should like to thank the members of the Senate and the House of Commons who are serving on this committee. You have undertaken a task that will be fairly difficult. This is the first of four bills. It is, however, unrelated to the three other bills you will be considering, because they are bills to institute collective bargaining in the Civil Service, and call for a re-organization of the Civil Service Commission which will become the Public Service Commission, and a re-organization of the Treasury Board.

The bill before you, in respect of your consideration of which there is a time limit, is a bill to adjust the pension plans of the public service so that they may fit in with the Canada Pension Plan. The bill has several other purposes. It deals with the wartime service of military personnel and also the question of the forfeiture of pensions by retired military people when they come to work in the Public Service of Canada.

Mr. Hart Clark and Dr. Davidson are with me today, and, with your permission, I should like to have them go through the bill with you in detail and clean away matters of interpretation—that is, deal with it clause by clause, or in whichever way the committee decides. It might then be useful if you could reserve any points on which you wish to question me, especially in respect to Government policy, and I will come back to the committee after all the various intricacies of the bill are cleared away. At that time I shall be pleased to talk to you about Government policy on particular matters included in the bill upon which some of you might want to ask questions. Indeed, some matters have already been raised in the House of Commons. At that time I shall be quite prepared to make a statement.

It is my understanding also that you are going to hear representations from retired officers' associations and from some of the civil service associations. If it meets with your approval, I would prefer to come back after you have heard these representations, and then answer questions relating to Government policy.

If this would be permitted, I would like to introduce to you Mr. Hart Clark and Dr. George F. Davidson, who are here. They are both very familiar with the bill. Then we can proceed as you see fit. Perhaps then you could clear up a

good many of the matters included in the bill before you start questioning me on matters of Government policy.

Mr. BELL (*Carleton*): It seems to me that there is one question of public policy on which we should be clear before the minister leaves. I wonder if you would outline to us the factors which induced the Government to decide to integrate the Public Service Superannuation Act, and other acts, and the Canada Pension Plan, rather than to stack it?

Hon. Mr. BENSON: Well, the Civil Service pension in Canada is a pension plan to which civil servants contribute $6\frac{1}{2}$ per cent, and in the case of females 5 per cent. When the matter of the Canada Pension Plan came up the Government was faced with a decision as to whether or not it should be stacked or there should be integration. At that time they consulted the Civil Service national organizations and the Advisory Committee on the Public Service Superannuation Act which includes the staff side and representatives of Government. The decision was made that in view of the relatively high contributions and the fact that the Civil Service pension in Canada is one of the better ones in the western world, employees would rather have a pension integrated than stacked. I know Mr. Knowles, who is here, argues we should not have let them do this, but I think the decision really is an employee decision arrived at after full consultation with employer organizations.

Mr. BELL (*Carleton*): Has any consideration been given to an escalation clause in the public Service Superannuation Act so that it would have a genuine integration of the Canada Pension Plan?

Hon. Mr. BENSON: No. Here we get into a matter of what should happen in pension plans throughout the country. I think the Canada Pension Plan, by attaching somewhat of an escalation factor, has started a precedent in the country. It was a precedent, however, that the Government did not want to follow or feel it should follow in dealing with this pension plan which, as you know, is a funded pension plan for employees of the Government service.

Mr. CHATTERTON: Is the Government giving consideration to other legislation such as the federal Public Service Pension Adjustment Act, as you call it?

Hon. Mr. BENSON: I can only assure you that the problem of all retired civil servants, and indeed of older people in Canada is receiving active Government consideration seriously, and has been for some time. We cannot help but be considering it seriously.

Mr. BELL (*Carleton*): The honourable minister is more encouraging than the Minister of Finance, I am glad to hear.

Hon. Mr. BENSON: If you want an argument in regard to adjusting pension plans after people retire, it is that the Government pension plan is funded like hundreds of other pension plans in the country, in which the amount that people get out of the pension plan is based on their contribution, and there is no automatic escalation built into it.

Mr. CHATTERTON: If you tell us, for instance, that you are considering legislation such as the Public Service Pension Adjustment Act—

Hon. Mr. BENSON: The problem is under constant consideration and review. There are arguments both ways. I think the Minister of Finance has given the

arguments against making adjustments in the Public Service for retired public servants. They contribute so much to a pension plan, and the plan is funded to take care of this responsibility. What they get out is relative to what they put in and is relative to the salaries at the time they make their contributions, and it is the same as pension plans across the country. It is not a problem unique to the Public Service.

Mr. KNOWLES: I do not want to throw cold water on the encouragement that Mr. Bell gets out of the minister's assurance, but I would like to know just what this assurance means. Let me put it this way. When the present Government first came into office we had the assurance of the then Minister of Finance that this matter of adjustment of pensions on retirement would be considered. This built up to where consultations seemed to be taking place, where hopes mounted. Then the point was reached when the answer was pretty firm to the effect that nothing would be done. The Minister of Finance is the one who knows.

Mr. CARON: Mr. Chairman, I wish to raise a point of order. We are not discussing that plan, we are discussing Bill C-193, and I think we should go on with this. It is not the time to discuss what might happen to those who are retired.

Mr. KNOWLES: Mr. Chairman, one can see that if this is a point of order it should have been made 10 minutes ago. We do have a bill to amend a group of superannuation statutes, and some statement on this as to whether or not this is just the usual answer to whether the Government really is going on to a new round of considerations.

The Co-CHAIRMAN (*Mr. Richard*): I think you will agree, Mr. Knowles, that at the present time this committee is not considering pensions of retired civil servants. However, I quite agree that it was a good thing to have a short statement, because the matter has been in everybody's mind. My feeling is that we have received about the only kind of answer we can receive at the present time from the Minister of National Revenue, who is not the Minister of Finance and who cannot speak for Government policy which has not been enunciated yet.

Hon. Mr. BENSON: I would not like anyone to take anything I have said as assurance of anything. What I have said is that we have been looking at these matters; and this is a fact. Documents are prepared which I have been studying in this regard, and I cannot say any more than that it is not an assurance of any kind. There is no change in Government policy. I cannot make a unilateral change in Government policy. I am reviewing the matters, that is all.

Mr. CHATTERTON: If the contention is raised that we cannot discuss a problem of superannuation, I think that is completely wrong, because representatives are appearing before us and I think it is definitely their concern. They have an interest and stake in this.

The Co-CHAIRMAN (*Mr. Richard*): Not in this present bill. Those who are already retired are not affected by this bill.

Mr. CHATTERTON: Well, that is the contention, but these people believe they have a stake.

The Co-CHAIRMAN (*Mr. Richard*): I think they have a stake, not in this bill, but in any legislation. May we make that clear I am sure what the honourable

members would like to know just now is where the Government stands on this, and we can get on with the bill shortly after. I do not think it is necessary to raise any point of order at this time.

Mr. KNOWLES: I do not accept the point of order. Will there be other opportunities? Is Mr. Benson in a position to say whether there could be some other committee opportunity to deal with this problem, and be in order?

Hon. Mr. BENSON: I cannot say that. This bill is to adjust pension plans of those presently employed by the Government. I cannot say more. It is a question raised by many retired public servants. When these questions are raised, the Government has to consider them. I can give no assurances of any kind.

Mr. KNOWLES: Is there any written correspondence concerning the statement that public service groups approved of the principle of integration? I am not doubting the minister's word, but all the letters I get from civil servants on the other side.

Hon. Mr. BENSON: I am told that the Advisory Committee, which consists of people on the staff side and on the Government side, made a recommendation to the Minister of Finance for integration and this was the course followed by the Minister of Finance.

Mr. KNOWLES: When did those discussions take place?

Hon. Mr. BENSON: Dr. Davidson and Mr. Clark are in a better position to answer that.

Mr. KNOWLES: I am trying to find the date when the statement was first made in the house about the pension plan. I think it was November 1964. The principle of this bill is a substantially different interpretation of that statement. Were there no discussions in the meantime or prior to 1964? This ready concurrence mystifies me.

Hon. Mr. BENSON: The recommendations were made in March 1964 to the Minister of Finance, on which this bill was designed.

Mr. KNOWLES: In the last two years, all the protests which have come to us have been otherwise.

Hon. Mr. BENSON: I never heard any protests with regard to integration or stacking. I have not had a single letter personally from the Civil Service with regard to the question.

Mr. KNOWLES: This is strange. I have not had a single letter from civil servants supporting it.

Hon. Mr. BENSON: We have different friends.

Mr. CHATTERTON: Could a statement be prepared on each of the seven other acts which are to be affected by this bill.

Hon. MEMBERS: Agreed.

Mr. KNOWLES: As to procedure, I should like the opinions of Dr. Davidson and Mr. Clark.

Co-Chairman Mr. RICHARD: It would be well to hear from Dr. Davidson and Mr. Clark first.

Dr. George F. Davidson, Secretary, the Treasury Board: Mr. Clark is probably the only person who really understands what is really in this bill. Although I shall be here, I will pass on to him as many questions of detail as I can.

As to procedure, it seems to me that the sooner we consider the bill Part by Part the better. We can become confused by a general presentation. We should concentrate first on the bill as a whole, as set out in opening page of Explanatory Notes. Then we should concentrate on Part I. Clark and I will give cross references wherever necessary to clauses in other acts or to clauses elsewhere in this bill.

I direct your attention to what is stated here to be the four-fold purpose of the bill as a whole. It is to provide for fulfilment of the undertaking given by the Government, at the time of the introduction of the Canada Pension Plan, to implement, to whatever extent possible, the policy of integration between the Canada Pension Plan and the legislation covered by this bill.

The second purpose is to take account of the movement in the direction of portable pensions, which has become a feature of provincial legislation. Quebec, Ontario and Alberta have passed legislation to increase portability of pensions as between industrial and other pension plans. This is to enable the labour force to become even more mobile than in the past, by removing deterrents through lack of portability.

In conformity with the trend established by provincial legislation, the Government is prepared to play its part to convert its legislation to conform to these portability requirements which the provinces are imposing. The third main purpose is to raise the limit on the amount of the supplementary death benefit payable in respect of persons employed in the Public Service and members of the Canadian forces. In the past there has been a limit of \$5,000 on the death benefit provision. This sum, by this bill, will be raised to a limit that is approximately equivalent to the salary that the employee is receiving at any given time. Together with the raising of the limit there is a provision to separate the death benefit provisions for members of the armed forces from the death benefit provisions for the members of the Public Service, the reason for this being that the mortality experience in relation to the relatively healthy members of the armed forces is so much more favourable than that of the relatively unhealthy members of the Public Service that the armed forces can be given the advantage of the more favourable rate to which their experience entitles them. For that purpose the death benefit provisions, as they apply to members of the armed forces, will be deleted from the Public Service Superannuation Act and be converted into a separate new Part of the Canadian Forces Superannuation Act.

Finally, there is a grab bag of amendments of different kinds which I think it will be better to deal with as we come to them, because some of these amendments are of a general nature that are being made in the interests of better administration and to clean up a number of leftover problems that have arisen from time to time in the past. These will affect some parts of the legislation and others. There is, for example, something here covering the situation that arose from the fact that the postal workers went out on a work stoppage last year and technically disqualified themselves under the present law

from being able to contribute in respect of the time they were off work and could not count it as pensionable service.

There is a clause in the Canadian Forces Superannuation Act amendments which takes care of the provisions that have been the subject of representations by retired members of the armed forces now employed in the Public Service with respect to deletion of section 17 (2) of the Canadian Forces Superannuation Act.

There are amendments arising from the criticism voiced by the Auditor General on a number of technical points that have arisen in the course of his examination of the public service superannuation accounts from time to time. These can best be dealt with when we come to the consideration section by section of the bill now before us.

The Co-CHAIRMAN (*Mr. Richard*): Mr. Chatterton.

Mr. CHATTERTON: In approaching the whole question of integrating the P.S.S.A. with C.P.P., the P.S.S.A. operates on a funded basis. Was that feature of the P.S.S.A. retained there to proceed primarily with the principle that that feature of P.S.S.A. will be retained? Will there be a different expectancy with regard to demands on P.S.S.A. than before?

Dr. DAVIDSON: The principle of funding is being retained by the Public Service Superannuation Act to exactly the same extent as has been the principle of the legislation before. In extracting, if I may use that expression, the segment of the contributions that relates to the contributions payable under the Canada Pension Plan—in extracting that segment of contributions, we have endeavoured to ensure that the segment of benefits extracted at the same time as benefits could become payable under the Canada Pension Plan balances off exactly against the contributions extracted so that there is no disturbance of the actuarial balance of the P.S.S.A.

The Co-CHAIRMAN (*Mr. Richard*): Mr. Bell.

Mr. BELL (*Carleton*): Could I ask Mr. Clark if he could indicate the impact on the individual civil servant? I think I am correct that no one will be less favourably situated as a result of the integration. Could Mr. Clark tell us under what circumstances civil servants will be more favourably situated so far as future superannuation under the Canada Pension Plan is concerned?

Mr. Hart Clark, Director, Pension and Social Insurance Division, Department of Finance: Mr. Bell, until the Canada Pension Plan benefits become payable to the civil servants who have contributed since the 1st of January of this year there will be no change in the benefits payable under the Public Service Superannuation Act. However once the Canada Pension Plan benefits become payable it would be a probable result that the combination of the benefits of that plan and those payable under this amended plan will be higher than the benefits payable had the P.S.S.A. remained unchanged. The tables which I can distribute whenever it is deemed appropriate will give examples of this, and in the case of career civil servants the effect of the Canada Pension Plan is to give what you might call a maximum gain in this regard for a person who has, say, 10 years to go until retiring at the age of 65. This is an inherent feature of the Canada Pension Plan itself.

Mr. BELL (*Carleton*): It applies to everyone?

Mr. CLARK: That is right, and so the same relative gain that the contributors to the Canada Pension Plan as a whole will have is passed on to a substantial degree in the integrated formula which was recommended to the Government by the advisory committee.

The other factors which are quite relevant come up in the cases of survivor benefits under the two Acts, and they are again in accordance with recommendations of the advisory committee—what you might call duplication of the benefits under the two plans is proposed. There are certain problems which gave rise to this, and the committee recognized these and recommended this approach which the Government decided to adopt. This of course won't be a factor until 1968 when the survivor benefits would first become payable under the Canada Pension Plan.

Again in the field of disability benefits, which under the Canada Pension Plan will become payable in 1970 the same sort of adjustment formula as proposed for ordinary retirement will apply, and the same relative gain could take place in the case of a person retiring for disability.

(*Translation*)

Mr. CARON: Does this bill include a change affecting the prevailing rates employees of Public Works?

Dr. DAVIDSON: Would you please repeat the question?

Mr. CARON: Could this bill change the rates for prevailing rates employees in Public Works.

Dr. DAVIDSON: If you will look at clause two on the second page, the definition is there.

Mr. BOURGET: Section 3(c).

Dr. DAVIDSON: Prevailing rates employees are included.

Mr. CARON: Public Works are included as well?

Dr. DAVIDSON: Yes.

Mr. CARON: Thank you.

(*English*)

Dr. DAVIDSON: Could I just add one very brief word to Mr. Clark's explanation on the previous question, namely, that his description applies to the relationship between employees under the Public Service Superannuation Act and the Canada Pension Plan. The relationship in respect of members of the armed forces is, of course, different.

Mr. BELL (*Carleton*): Mr. Clark spoke of tables which he had. I wonder if they are available, if this is the appropriate time for us to have them.

Mr. CLARK: They are available.

The Co-CHAIRMAN (*Mr. Richard*): Would it be a more appropriate time to distribute them when we know more of what they are about?

Mr. BELL (*Carleton*): He has indicated they do relate precisely to this question.

Mr. CLARK: That is right.

CO-CHAIRMAN (*Mr. Richard*): Then will you have them distributed?

Mr. CLARK: Yes, Mr. Chairman.

Mr. KNOWLES: Mr. Chairman, we seem to have got into a matter of order right away, Mr. Bell's question and the answer relating more or less to the formula of benefits at the beginning of clause 9 of the bill. If that is our plan and we are going to stay with the subject that has been raised I would like to ask Mr. Clark a question following on what he has just said.

I think I understand the formula, in that it provides that a person with 10 years to go does get the maximum marginal benefits. At the end of the 10 years he has the full benefit of 10 years in the Canada Pension Plan and has lost a minimum amount so far as the Public Service Superannuation Act is concerned. Is it not correct that if one carries this forward—and let me go to the extreme—in the case of a person having 35 years to go from any date subsequent to January 1, 1966, at that point there is practically no difference. He will have gained 25 per cent of his maximum pensionable earnings under the Canada Pension Plan, but he will have lost 24½ per cent from his superannuation.

I have two questions. One, am I understanding the way the formula works? My second question is: What is the rationale for a scheme that actually reduces the marginal benefit an employee will get the longer he has been in the service? It is not just that he gets a smaller increment in the succeeding years after the tenth year but actually the total marginal benefit dwindles until it gets down to nothing. Is my understanding correct? And, secondly, what is the rationale?

Mr. CLARK: Yes, Mr. Knowles, your understanding is correct. At, say 30-35 years the result of applying this formula could well be that the civil servant's pension would be the same on the combined basis as the act now provides. I think this relationship could be attributed in part to the contribution basis that was developed under the Canada Pension Plan. As Mr. Benson indicated, one of the basic factors in developing this integration formula was the maintenance of approximately the same overall cost. In other words, the civil servant would continue to pay 6½ and 5 per cent, overall, but a lower effective rate, say, of 4.8 on the first \$5,000 initially—

Mr. KNOWLES: On the first \$4,400.

Mr. CLARK: That is right, and then the full 6½ per cent on any salary beyond the \$5,000. Now, with this diversion of contributions away from the superannuation account, the matter of calculation of what type of benefit could be paid was turned over to our actuarial advisers in the Department of Insurance, and we considered a number of alternatives which they suggested, bearing in mind, as I say, that the overall cost was to be kept within the same limits. This was the end result of their calculations that produced this levelling off, as it were, over that period of time. It depends, of course, on a number of factors as to whether and in how many cases this will happen, but it is a possible result.

Mr. KNOWLES: I appreciate the actuarial calculations that produced these figures, but I do not know whether I have yet made the point I am trying to make in asking for the rationale of this. Most people who come into a pension plan, or who already have a pension plan and come into another pension plan,

reasonably anticipate that the result will be in the end a total pension greater than would have been the case otherwise. How do you sell to the young civil servant going in for 35 years the fact that he is going to be in two plans, but 35 years from now he will get the same pension as he would have got had he only been in the one?

Mr. CLARK: I think, Mr. Knowles, one could have developed such a formula perhaps, where the overall cost would have remained the same but where civil servants, say, retiring in the next 20 years would have had a greater reduction than that provided under this formula.

Mr. KNOWLES: No doubt.

Dr. DAVIDSON: Mr. Knowles, could I suggest to you that what you are putting by way of a question as to rationale is really relating to that portion of the result which is an incidental portion of the basic principles under which integration is being put forward.

Mr. KNOWLES: I agree. I just do not like it.

Dr. DAVIDSON: What is happening, in effect, is that the object which the Government set out to achieve on the basis of the recommendations received from the advisory committee was as complete an integration of the Canada Pension Plan and the Public Service Superannuation Plan as would be possible; and had it been possible to work in strictly actuarial and mathematical terms a complete fit by which the combined contributions would have been exactly the same and the combined benefits exactly the same, this would undoubtedly have been the result which would have been presented for parliamentary approval but, in fact, it did not work out that way and there has resulted what has been described as a degree of "windfall" benefit in the first ten years of the integrated operation of the two plans.

You are asking us to explain the rationale of not perpetuating the "windfall" benefit. I think the greater difficulty is of explaining the rationale of the "windfall" benefit in the first place.

Mr. KNOWLES: We went through all that in another committee.

Dr. DAVIDSON: If you can accept my description of the windfall benefit for the moment, the fact is it is really a feature of the Canada Pension Plan; it is not a feature of the Public Service Superannuation Plan, either in its present or amended form.

Mr. KNOWLES: I recognize that and, unlike some of my friends on the Canada Pension Plan Committee, I did not object to the windfall benefit, and I still do not object.

My point is that in the case of the windfall benefit under the Canada Pension Plan there is not a windfall for those 20 or 30 years down the road, but the absolute amount, at least, is still there for them. However, in the case of the retiring civil servant you take away that absolute amount. You give the windfall for the next ten years, and then you gradually cut it out. This was the complaint of the Great West Life. It did not like the windfall. A man gets it at 55, but the amount of that windfall is there for the 45 year old and the 35 year old.

I know that what we are into here, Mr. Chairman, is a matter of policy—a matter of Government decision. We have before us the experts who have had to translate that Government decision into actual formulas. What I am really objecting to is the policy.

Mr. CHATTERTON: What Mr. Knowles is trying to do is to correct the inequities and anomalies that are inherent in the Canada Pension Plan.

Mr. KNOWLES: Not at all.

Mr. CHATTERTON: The experts, when they appeared before the Canada Pension Plan Committee, said that when you try to integrate the Canada Pension Plan with any other funded plan you run into difficulties. It is just not practical.

Mr. Clark has indicated that the survivor benefits of the Canada Pension Plan will not apply to civil servants as in the case of all Canadians until 1968, except the disability benefit which applies in 1970. A civil servant who retires next year, for instance, gets merely the survivor benefit under the P.S.S.A.

Dr. DAVIDSON: That is right.

Mr. CHATTERTON: The widow of a civil servant who retires in 1968 gets the benefits from both, and I will show you in time where a widow gets a pension greater than her husband's salary. My question is: Was it not possible to integrate in such a manner that even though a civil servant who retires next year will get greater survivor benefits from the P.S.S.A. they will be subsequently reduced when the survivor benefits of the C.P.P. are applied, keeping in mind that you have done that, in effect, already in that a civil servant who retires before he becomes eligible for the C.P.P. benefits has strictly a P.S.S.A. pension? That P.S.S.A. pension is adjusted at the time when he becomes eligible for the C.P.P. payment; is not that right?

Mr. CLARK: Yes.

Mr. CHATTERTON: Did you try to do that, or was it found to be impossible?

Mr. CLARK: Mr. Chatterton, the approach in dealing with this aspect was not to improve the basic existing benefit formula under the P.S.S.A. All I can say is that it was not proposed. I guess it is as simple as that.

Mr. CHATTERTON: It was not even considered?

Mr. CLARK: Well, I suppose you could have had the parallel consideration that in ten years from now, say, the maximum gain from the integration formula will take place, and the same approach might then be suggested for any civil servant retiring in those ten years. Why should you not give him a higher benefit than that of the civil servant retiring in 20 years with the same salary experience? This was not the approach that was considered.

Mr. CHATTERTON: I can see that it would be almost impossible from a practical point of view to integrate that feature, but the fact is that the survivor benefits all have a fixed amount in them. For example, the widow's pension is \$25 per month plus a percentage, and the orphan's benefit is a fixed percentage, and so on. In view of the fixed benefits of the C.P.P. it seems to me that it would have been possible to amend the survivor benefits of the P.S.S.A. to adjust them for those who do not get both.

Dr. DAVIDSON: Mr. Chatterton, of course, it would be possible, but it would be possible only by increasing the expenditures, and making an additional charge against the Public Service Superannuation Fund, because there would not be anywhere else to charge them. This would, in however a minimal way, upset whatever actuarial balance there is in the—

Mr. CHATTERTON: That would apply if you leave the survivor benefits in the P.S.S.A. as they are, but if, on the other hand, you reduce the outflow from the P.S.S.A. by reducing the survivor benefits once the C.P.P. survivor benefits apply, then you could have equalized demand on the P.S.S.A.

Dr. DAVIDSON: The point is that after 1968 when the survivor benefits of the Canada Pension Plan come into effect it is not intended to reduce the survivor benefit under the P.S.S.A. Therefore, there is no recovery. Unless one were to consider a compensatory reduction in the survivor benefit under the P.S.S.A. after 1968 to pay additional benefits in the two-year period, and thus maintain a balance in the fund, one could not achieve your purpose without increasing the charges on the Public Service Superannuation Fund. Rightly or wrongly, I think the assumption made by those who worked on it that it would not be desirable to shave or reduce the Public Service Superannuation survivor benefits past 1968 for a host of future survivors merely to meet a transitional situation in respect of the years 1966 and 1967. That decision could well have gone another way, but this was the rationale of the particular decision.

Mr. KNOWLES: Would not Dr. Davidson's suggestion have the effect of giving to civil servants between now and 1968 disability benefits from the C.P.P. that other people do not get out of the C.P.P.?

Dr. DAVIDSON: Survivor benefits?

Mr. KNOWLES: Yes. I am concerned with the fact that civil servants keep all the benefits that the Canada Pension Plan was supposed to provide, but are not asking for any special ones.

(Translation)

Mr. CARON: Could we come back to clause 6, or can we discuss it elsewhere? I see in clause 6—

Dr. DAVIDSON: What page, Mr. Caron?

Mr. CARON: On page 9 at the bottom in French; in English, I believe it is page 8, sub-paragraph 2. Could we have an explanation on this part covering re-imbursement of a pension paid in error? Can the amount be recouped in a lump sum, or can it be obtained in instalments so as to avoid the retention of the whole salary?

Dr. DAVIDSON: In instalments.

Mr. CARON: How many? In what proportion?

Dr. DAVIDSON: I do not know. That would depend on the amount of his payments.

Mr. CARON: Yes, but is there not a proportion, a percentage?

Dr. DAVIDSON: That depends on the decision of the Minister.

Mr. CARON: The Minister may decide?

Dr. DAVIDSON: Yes.

Mr. CARON: This is not decided by statute—

Dr. DAVIDSON: No.

Mr. CARON: If he has to repay 10 or 15 per cent, or whatever amount he must repay. This will reduce his salary disproportionately.

Dr. DAVIDSON: You mean—

Mr. CARON: Through an error, we have paid out a pension. On one hand, he needed it, kept it, then we ask him to repay. Then, in reimbursing the amount, we ask for a sum, say of 5, 2, 3, 4 or 10 per cent. It is the Minister who decides. There is nothing in the Act that limits the amount by a certain percentage above which the Minister cannot go?

Dr. DAVIDSON: Yes.

Mr. CARON: Do you not think that it would be wise, in an act such as this, to establish a maximum and a minimum?

Dr. DAVIDSON: Mr. Caron, it would be better to cover that aspect in the regulations which the Governor-in-Council may establish.

Mr. CARON: But, that is a bit dangerous.

Dr. DAVIDSON: That's because it's a detail, you see and according to our experience with the other laws, my own personal opinion is that the Minister will not be very harsh in deciding the amount that must be retained from each employee.

Mr. CARON: But this is required of the Minister, who will render the decision?

Dr. DAVIDSON: Oh! Yes.

Mr. CARON: If the Minister is severe by nature, he may be harsh on the person, and if the Minister is mild by nature, he could be soft.

Dr. DAVIDSON: The Minister of Finance has never been very hard.

Mr. CARON: It has happened on occasion—Thank you.

(English)

Mr. KNOWLES: Mr. Chairman, may I come back again to clause 9. There is a point that does concern a great many people in the Public Service to which I think positive assurance should be given. I have in mind Mr. Pennell's statement in November 1964, and a statement by Mr. Bryce before the Canada Pension Plan Committee to the effect that persons who put in a number of years to enable them to retire before age 65 are not affected adversely at all.

If I understand clause 9, this business of reducing the amount of a pension under the Superannuation Act applies only to a person who has reached age 65. In other words, if a person has 35 years service in at age 62 and retires at that point he draws at that point the full pension provided in the Public Service Pension Act.

Mr. CLARK: That is correct.

Mr. KNOWLES: But at this point, if he reaches 65 the percentage reduction set out in here in a year comes into effect, presumably offset by what he will get from the Canada Pension Plan, with the understanding that if it is not the same he can apply for the difference.

Mr. CLARK: That is correct.

Mr. KNOWLES: The point that I think should be explained to the house is that there are a lot of public servants who do not understand it, particularly employees in the Post Office service. They know they have the right to retire at 62, and now they have to go to age 65. I think this should be made clearer to those who are affected.

Mr. TARDIF: If an employee retires before 65, does not that apply to those who are retiring for health reasons?

Dr. DAVIDSON: After the age of 60 you can retire at your own choice or that of your employer.

Mr. CARON: And get the federal pension anyway.

Mr. KNOWLES: In spite of what the experts say, I think it should be on the record, because I think this is the point that causes the greatest amount of misunderstanding and disturbance.

Dr. DAVIDSON: We would be glad to repeat some of your words, but not all of them, Mr. Knowles.

Mr. CHATTERTON: From the answer you have just given, I take it that if a civil servant retires in 1967 he is not eligible for any Canada Pension Plan benefits, but he would have contributed to the Canada Pension Plan. He goes on the P.S.S.A. He is not eligible for C.P.P. because he has not reached the age limit. If he retires next year, having contributed to C.P.P. the pension is strictly a P.S.S.A. pension, but when he arrives at an age at which he is eligible for C.P.P., his P.S.S.A. is changed, is that correct?

Mr. CLARK: That is right. I think Mr. Knowles was dealing with the case when the plan was operating smoothly but subclause (2) of clause 9 on page 13 of the bill, gives this effect.

Mr. KNOWLES: On this question, may I raise one other point? Is it a fact as set out that a person whose combined pensions do not equal what they would have done under the P.S.S.A. must apply for the difference? If so, why is it not automatic?

Mr. CLARK: This really stems from the Canada Pension Plan. The Superannuation Branch has no authority to go and ask the administration of the Canada Pension Plan what pension the man is getting from the Canada Pension Plan. You will recall that in the Canada Pension Plan there were very close restrictions on the dissemination of information on pensions even within the Government service, and therefore it was necessary to have the individual retired civil servant initiate the action for the release of the information from the Canada Pension Plan administration, whereby it could be established that he was receiving—

Mr. KNOWLES: That would place the pensions on the basis of dissemination of information.

Mr. CLARK: If the employee authorized it. His application would contain a statement authorizing the administration of the Canada Pension Plan to release the information.

Mr. KNOWLES: What happens in the case of an employee who does not realize what is happening to him and does not make the application until somebody calls his attention to it a year or so later? I have in mind particularly the phrase at the bottom of page 12 and the top of page 13 of the bill, that it is increased by the amount of the difference effective from such day as determined in accordance with the regulations. Should it not be effective from the day at which the difference to his disadvantage would be effective?

Mr. CLARK: That could well be the day that is fixed in the regulations.

Mr. KNOWLES: Why should we leave that to the regulations, should it not be a matter of right established in the statute? Take the case of a postal worker retired at 62—and it strikes me this could happen in the next little while. He gets his full pension under the Superannuation Act. Three years later he reaches 65 and his superannuation is reduced according to this formula, but this particular postal worker does not work in the meantime. He has had three years of no contributions to the Canada Pension Plan, and he has only one or two years. So the amount of the Canada Pension Plan benefit he gets at 65 will be less than the reduction that will take place in his superannuation. Surely it should be automatic that the cheque that makes up the difference would be effective to the day of reduction?

Mr. CLARK: One factor that I think could be relevant to that point, Mr. Knowles, is that if this retired employee were employed elsewhere, if he left the civil service—this happens particularly in the case of those retired at 60, they find employment elsewhere and they contribute to the Canada Pension Plan. The Canada Pension Plan of course provides that if employment continues beyond 65 up to 70, or even 67, say, that there will be either the complete ineligibility for Canada Pension benefit, or, if he has already started to receive it, there could be a reduction in it. It was, perhaps, the uncertainty as to all the sets of circumstances that would arise under those conditions which led us to suggest a flexible provision, leaving it to the regulations, where you can be sure that the fairest approach would be taken.

Mr. KNOWLES: I think you are making a good case for what I said earlier, the application being necessary. However, with respect, I do not think you are doing so well on this point. It seems to me that entitlement ought to be without question that if this employee at 65 is found then or a year or two later to have been getting a total pension less than he would have got, that after he applies for it the entitlement back to age 65 should be automatic—I mean, it should be as of right, not subject to the vagaries of regulations.

Dr. DAVIDSON: Mr. Chairman, if Mr. Knowles means that the retroactivity of whatever he should be entitled to, taking into account the variety of circumstances Mr. Clark had indicated, or if Mr. Knowles is suggesting that retroactivity should be automatic, I think there would be no quarrel with that. This says that the person would be entitled, as a makeup, to the amount to which he would be entitled under this act if no deduction were made under (1a). But circumstances under which no deduction is being made might include

the circumstance of the man being employed from 62 on and therefore his Canada Pension Plan entitlement is under suspension after age 65.

Would you suggest that, because he is working and his Canada Pension Plan portion is in suspense during the period of his employment, that total amount should be made up to him retroactively?

Mr. KNOWLES: You have made the suggestion. This gets back to the post office workers who have been told, by you and by me, that they suffer no disadvantage. Our post office workers say that if it were not for this arrangement they could get some other job and draw full superannuation but under this arrangement and the circumstances outlined by Dr. Davidson, the superannuation will be reduced at 65. Can you explain that to the post office worker in the light of the assurance that there would be no reduction?

Dr. DAVIDSON: His superannuation is not reduced; his Canada Pension Plan benefit is in suspense.

Mr. KNOWLES: Under this clause, once he reaches 65 it is reduced. On the one hand the formula is such that civil servants do not get full extra benefit of the Canada Pension Plan. That is decided policy and I can only argue about it.

Here is a case where you are nullifying the assurance that no civil servant would be at any disadvantage that he would not have suffered had the C.P.P. not come into effect. You have helped me to build up a case.

Dr. DAVIDSON: I try to be helpful.

Mr. KNOWLES: A post office employee retires at 62, gets another job and works to 70. His superannuation pension is reduced at 65. He then says "You said we would not suffer; if there had not been a C.P.P. I would still be drawing full pension."

Dr. DAVIDSON: The intention is to ensure that a person retiring at 62 will get full public service superannuation benefit without any abatement between 62 and 65, assuming that he has retired. The intention further is that at 65, if he continues to be retired, he suffers an abatement in public service superannuation benefit only equal to the C.P.P. amount that he becomes entitled to at 65, and if there is any greater abatement it has to be made up by this clause here. That right, so far?

Mr. KNOWLES: Yes.

Dr. DAVIDSON: This then provides that if at 65 he is not retired but employed, the amount of the C.P.P. which is suspended under C.P.P. because of his employment at 65 will be made up to him by this clause on page 13.

Mr. KEAYS: Up to the time he gets the C.P.P.

Dr. DAVIDSON: This clause does not go so far as to provide that that will be made up to him.

Mr. CARON: That will affect only those employed by the Government. Outside the Government it does not affect their pension.

Dr. DAVIDSON: It does. If he is working at 65 the C.P.P. provides that his benefit under the C.P.P., to which he would be entitled otherwise, would be suspended.

Mr. CARON: Even if he is working anywhere?

Dr. DAVIDSON: Yes.

Mr. TARDIF: He can stop making contributions?

Dr. DAVIDSON: No. He will continue to make contributions under C.P.P. and build up his eligibility for future benefit when he does retire.

Mr. WALKER: No one shall receive less total benefit from that pension and C.P.P. than he would have received. This is the philosophy of the full act. Is that not so, that nobody shall receive less than whichever pension turns out to be the higher—the C.P.P. or superannuation?

Dr. DAVIDSON: That is when he retires.

Mr. KNOWLES: That would be the philosophy. We are talking about a man who retires at 60 or 62 and suffers a reduction in his pension. The section says there is to be a reduction. It does not say anything about C.P.P. It provides a formula of seven-tenths of a per cent.

There is another section which says that, as a result of this reduction, together with whatever he is getting through C.P.P., if he is not back to the original amount, he can apply for makeup pay.

Now we are told there can be circumstances where he would not get that amount.

So, from 62 to 65 a man is working, drawing full superannuation benefit. From 65 to 68 he is still working and his superannuation is reduced, but he may not get the other.

Mr. CLARK: That particular provision is not dependent on regulation. Subclause (1d) on page 13 says that the guarantee under (1c) does not apply in these circumstances of employment, in effect, after 65. That is not a subject that is left to regulation.

This is another recommendation of the advisory committee which the minister mentioned earlier. This committee felt that, taking two civil servants with similar employment history, one retires completely at 65 and the other continues working, the one who retired completely and who was subject to a reduction in his pension, should not get less from the superannuation account than the other one who continued working. This was the reasoning which led to this recommendation.

It was to give equality between pensioners whose service with the Civil Service had been identical.

Mr. KNOWLES: Are you telling me now that under (1d) a person who, because he is still working, is not drawing C.P.P., is not subject to (1c)?

Mr. CLARK: That is correct.

Mr. KNOWLES: But when we were talking about the setting of the effective date by regulation, you gave the example of a person in this 65 to 70 bracket as a reason for leaving it to regulation.

Mr. CLARK: You could have a situation of some doubt over the application of sections 68 and 69 of the C.P.P., where the relevant date at which application could be given to (1c) was not completely clear.

We can look at this further, in view of your concern. It was partly a drafting difficulty in spelling out the situations that would have to be covered. There were no ulterior motives.

Mr. KNOWLES: That satisfies me if the experts will make sure that the commitment given to persons who have achieved the right to retire on full pension before 65 is not lost.

The Co-CHAIRMAN (*Mr. Richard*): It is now 11 o'clock. Is it the wish of the committee to adjourn so that the members may attend the House of Commons?

Hon. MEMBERS: Agreed.

Senator FERGUSON: May I ask if the example supplied by Mr. Clark will be part of the printed proceedings or not?

The Co-CHAIRMAN (*Mr. Richard*): It was not intended that it should be but it can be printed as an appendix, and I will accept such a motion.

Senator FERGUSON: I so move.

Motion agreed to.

The Co-CHAIRMAN (*Mr. Richard*): I suggest we adjourn until 2.30.

The committee adjourned until 2.30 p.m.

AFTERNOON SITTING

The Co-CHAIRMAN (*Mr. Richard*): Order, please. We will now resume the discussion where we left off this morning with Dr. Davidson and Mr. Clark.

Mr. BELL (*Carleton*): Mr. Chairman, when the committee rose this morning we were at what I think is perhaps a critical point of the situation under the provisions of section 9, as they appear on page 13, and I have had some qualms about whether there is not a very genuine problem here.

I understand fully the situation as to the person who retires at age 62 and from age 62 to age 65 is entitled to his full pension under the Public Service Superannuation Act. At age 65 that pension under the Public Service Superannuation Act is reduced by the amount of the Canada Pension, and if he is then employed he does not then receive the Canada Pension payments, of course.

If this were to be started *de novo* for all persons entering the public service as of this point, I could feel this was fully justified. I am wondering whether there is any element of a breach of contract with those who have entered the public service with the act as it has stood up to now, who had every reason to anticipate that at age 65, when in 20 years' time Dr. Davidson goes out at age 65, he would be entitled to be employed again, or figure that he could, and draw a full superannuation. Are we depriving the Dr. Davidsons and the Mr. Clarks of something which was virtually an assurance given by statute to them?

This has, I confess, as I have meditated upon it over the lunch hour, concerned me very much, as to whether this provision ought not to be suspended until such period of time as you get a completely new group of people in the public service.

Dr. DAVIDSON: Mr. Chairman, could I perhaps offer one or two tentative comments which may verge on expressions of opinion?—and I apologize for that, if I stray too far into the opinion area.

In a sense, I suppose you could say—and I am almost afraid to say it with Mr. Knowles here!—that if you want to speak about a breach of contract, what the expectations are of civil servants under the law as it now stands and as he has read it up to now, any change in the Superannuation Act Parliament makes changes the expectations that the individual has under the Superannuation Act, and if that is what we are referring to by “a breach of contract,” I suppose one could argue that any legislation that changes any of the conditions of contribution or of benefit is a breach of contract; but Parliament reserves to itself the right to do this.

What this reduces itself to is the fact that the civil servant who entered in years past, at a time the Public Service Superannuation Act was on the statute books in a certain form, understood that he was required to make certain contributions and that he was eligible to receive certain benefits. And the conditions of employment in this regard have, in the life history of most of us in the public service, already changed on a good many occasions.

Mr. BELL (*Carleton*): Yes, but always for the better though, have they not?

Dr. DAVIDSON: Well, I hope so, and I would hope that in this instance also we would be able to agree they were changing for the better as well.

Mr. BELL (*Carleton*): Query!

Dr. DAVIDSON: Although this is a matter of opinion.

The fact is that a civil servant who has been paying at a certain rate of premium—let us say $6\frac{1}{2}$ per cent—towards his old age retirement has always been able to look forward to the expectation that he would be able to receive a benefit on retirement from the public service at a certain level. That is still the case under this legislation. He is still in a position where, upon his retirement from the public service, he is entitled to receive the benefit made up of two elements, the Canada Pension Plan and the Public Service benefit that will be the adjusted benefit under the new legislation if he takes his retirement.

Mr. BELL (*Carleton*): Provided that he stays off the labour market.

Dr. DAVIDSON: Yes, provided that the stays off the labour market and does not obtain other employment. If, however, he chooses to accept further employment he will then forfeit, for the time being, through suspension his entitlement to the Canada Pension Plan portion which is payable, and he will, during the period that he continues to be employed in non-governmental employment, continue to build up his entitlement and improve the amount of the Canada Pension Plan. Then immediately upon his retirement from the labour market he will be able to take up his improved Canada Pension Plan benefit without any adverse effect on the reduced Public Service Superannuation benefit which he had been entitled to draw since he was 65 years of age.

Could I just perhaps give the committee an example to show how this problem presents itself from a slightly different angle? I think Mr. Bell and Mr. Knowles have shown how it looks from one angle. Let us take the case—and I have discussed this privately both with Mr. Bell and Mr. Knowles—of two civil servants who are the same age and who entered the public service on the same day and, if you can imagine it, leave on the same day. Let us say they retire at the age of 62 and that each at that time has 22 years of service to his credit. Because they have drawn the same salary in the last six years of their

employment, they have the same average salary for pension purposes and they are entitled, as a consequence of taking their retirement at age 62, to exactly the same amount of pension. At age 62 these two retired civil servants will draw precisely the same amount of benefit. At age 65, if one of them remains completely retired and does not take employment, his Public Service Superannuation benefit is reduced by a certain amount of dollars representing the Canada Pension Plan benefit to which he is entitled.

His exact counterpart, under the law as it now stands, who has in the meantime entered the labour market, will have exactly the same treatment, as far as the Public Service Superannuation benefit is concerned. It would be reduced at age 65 to exactly the same amount of money the fully retired civil servant was drawing, only in this case the employee's Canada Pension Plan benefit would be suspended until such time as he retired from his non-governmental employment, at which point it would be reinstated at what would then presumably be a somewhat higher level.

From the point of view of the Public Service—and I believe I am correct in stating this was the position taken by the Advisory Committee on the Superannuation Act—the position taken is that these two retired civil servants, who have now exactly the same number of years and the same pension entitlement, are entitled to exactly the same treatment under the Government Employees' Public Service Superannuation Act, and that whatever effect the status of an employed or unemployed person may have so far as the Canada Pension Plan is concerned, it will not result in one of these civil servants being treated more generously than the other civil servant so far as the Public Service Superannuation benefits are concerned.

I think this illustrates the difficulty that we would be in if we were to accept the argument—and this might be employment, incidentally, that could qualify a retired civil servant under the Quebec Pension Plan as well as the Canada Pension Plan—that during the period an individual of 65 years of age and over is employed elsewhere when his Quebec pension or Canada pension benefit is suspended that he should be compensated for this by an additional amount of benefit from the Public Service Superannuation Fund. This would have two effects. It would result, first, in the Public Service Superannuation Fund subsidizing to this extent either the Canada Pension Plan or the Quebec Pension Plan, as the case may be, and, second, it would result in the retired civil servant aged 65 who continued to be employed receiving a larger benefit from the Public Service Superannuation Fund than the same retired civil servant not so employed would receive. We would consider, from our point of view, that this would be less than equitable treatment as between those two civil servants in the circumstances I have described.

Mr. CHATTERTON: Is my understanding correct that this adjustment of the Public Service Superannuation Fund payment will not apply in the years 1967 to 1969 inclusive?

Mr. CLARK: No, it would depend upon the relevant age as provided in subclause (2) on page 13.

Mr. CHATTERTON: Yes, that is what Dr. Davidson has said has been done in respect of these three transitional years.

Mr. CLARK: Except that the two persons in the same position would be treated in the same way. Two 60 year olds would be treated alike, regardless of what they were doing.

Mr. ORANGE: Mr. Chairman, this is an area which in many respects has a limited application because within 35 years this particular problem will disappear. I am wondering if the officials of the department—I know it is probably difficult to do this—have tried to calculate or make an estimate of what the cost or saving to the Canada Pension Plan would be, or what the additional cost to the Public Service Superannuation Fund would be. As I see it, it is a retrograde step for a civil servant in his not being entitled to the full benefits at the age of 65. I am wondering what the cost to the public treasury would be. Is it possible to calculate this?

Dr. DAVIDSON: I would say it is quite impossible to calculate it unless you can tell me how many of these civil servants at age 65 will continue to be employed, and give me at least some details of the general nature of their entitlement under the two schemes.

Mr. ORANGE: But in the calculation under the Canada Pension Plan I assume that there has been a factor calculated into it for people still in the labour force after the age of 65.

Dr. DAVIDSON: I think that that would be true for the population of Canada as a whole, but it cannot be made with respect to the retired civil service population.

Mr. ORANGE: The point here is well taken, and it is one of concern to civil servants who will take some form of employment after they reach the age of 65. This happens from time to time. Surely these people will look upon themselves as being pioneers for taking this at the age of 65. I think that this is a possible area of concern.

Dr. DAVIDSON: Are you asking me to agree with the opinion you have expressed?

Mr. ORANGE: No, I am expressing my own opinion.

Dr. DAVIDSON: Mr. Chairman, the point Mr. Orange is raising now is in the area of actuarial science, with which I am not familiar. It may be that the actuarial experts from the Department of Insurance, who had something to do with the calculations that were made in the context of the Canada Pension Plan, would be able to throw some light on this, but I cannot go beyond saying that I see some very real difficulties unless we have some fairly firm assumptions to go on, so that we may put a price tag on the relief that would result from the Public Service Superannuation Fund because of the provisions of this bill.

Mr. ORANGE: I am wondering if there would be any point in asking the officials of the Department of Insurance. Is that possible?

The Co-CHAIRMAN (*Mr. Richard*): Dr. Davidson advises me that Mr. Clarke of the Insurance Department is present.

Dr. DAVIDSON: Yes, perhaps he could comment on this.

Mr. E. E. Clarke, Chief Actuary, Insurance Department: The only thing I can say in this regard is that we have no statistics at all on which to make such

a calculation. You are talking about the relief for the Public Service Superannuation account from persons being employed after the age of 65 and, therefore, not getting the Canada Pension Plan benefit during such employment.

Mr. ORANGE: Yes.

Mr. CLARKE: I do not think we have any statistics at all that we could use to make such an estimate. We have calculated what the relief to the Public Service Superannuation account is in respect of present contributors from the benefit reductions after age 65, and we have also estimated what benefit would accrue to these same contributors from the Canada Pension Plan. The relief to the Superannuation Account, as I remember it, is of the order of \$350 million and this is offset by the contributions that the Public Service Superannuation account will not receive. The benefits that will accrue to the contributors of the Public Service Superannuation plan from the Canada Pension Plan is of the nature of \$750 million. The difference between those two figures is the benefit from the combination of the Canada Pension Plan benefit and the Superannuation plan benefit. These figures are in respect of the whole active contributor group at the present time.

Mr. KNOWLES: Mr. Chairman, I think it is to Dr. Davidson that I should put my question.

The Co-CHAIRMAN (*Mr. Richard*): Yes. Thank you, Mr. Clarke.

Mr. KNOWLES: Mr. Chairman, I would like to say again that I recognize we are discussing in all of this a marginal problem. The percentage of civil servants who will retire before the age 65 and work on until age 70 may not be very large, but I am still concerned about this attitude from the point of view of public relations, because of the kinds of complaints we have been receiving from some of these people. I will come directly to the question I want to put to Dr. Davidson. May I take a moment to make sure that we understand this section correctly. It was said this morning by Mr. Clark quite clearly that subsection (1d) on page 13 makes it clear that subsection (1c) does not apply to people who are not in receipt of Canada Pension Plan benefits between the ages of 65 and 70.

Mr. CLARK: That is correct, with reference to sections 68 and 69 of the Canada Pension Plan?

Mr. KNOWLES: Yes.

Mr. CLARK: That is right.

Mr. KNOWLES: But subsection (1a) and (1b) of section 9(1) do apply to those cases?

Mr. CLARK: That is correct.

Mr. KNOWLES: In other words, we have the picture correctly that these people who retire at age 62 and who are still working after age 65 do take a reduction in their annuities as spelled out in subsection (1a) of section 9(1), and they do not get relief under (1c)?

Mr. CLARK: Subject, of course, to the qualification about which Mr. Chatterton has been concerned, that this applies really from 1970 on.

Mr. KNOWLES: Yes, subsection (2).

Mr. CLARK: That is right.

Mr. KNOWLES: Now may I address my remarks directly to Dr. Davidson. There is no denying that you make a good case for equality of treatment, so far as the public treasury is concerned, between the two employees whom you described. But are you not, the Government of Canada, still in the position of having to explain your answer for this to the same two civil servants? If the Canada Pension Plan had not come into being and we did not have this integration and it was possible for these two civil servants to retire at that same early age, get the same pension, and for one of them to work and the other not, and the one who worked got the benefit of working, maybe for some private company to build up some more pension, but in any case there was no diminution of his superannuation, now that is something to start with—that was there. So the employees concerned say "Look, this is what we have, we are told by the Government there is to be no disadvantage to us as the result of the Canada Pension Plan." Yet plausible though you have made it, there is a change.

Dr. DAVIDSON: I do not know what the specific terms were, Mr. Knowles, of the assurance that the Government gave to the Public Service in terms of the Canada Pension Plan. I would have to talk with Mr. Clark to see if it was stated in quite such unqualified terms as you have indicated. You have said the Government has given the assurance that under no circumstances would any disadvantage arise to any civil servant as a result of the Canada Pension Plan and this integration with this legislation?

Mr. KNOWLES: I think that is a fair presentation of Mr. Pennell's statement in the House of Commons in November 1964, and of Mr. Bryce's statement before the Special Joint Committee.

Dr. DAVIDSON: I think this is true undoubtedly as a statement in so far as the position of a retired civil servant is concerned who is no longer in the labour market. I doubt very much whether it was ever put in the unqualified terms you have set out.

Mr. KNOWLES: In the light of that, you realize you have a public relations job to do.

Dr. DAVIDSON: Mr. Knowles, perhaps I should reverse our roles, and ask you if there is a problem of justifying to people who are under the Canada Pension Plan. Why does that one person who has worked and paid contributions up to age 65 and retires get his pension, and the person working does not get it until he stops work? This is really the problem here.

Mr. KNOWLES: At least, it is a new piece of legislation and this is a deliberate decision as to what is to be done, whereas now we are changing a previous setup. I think I can defend the Canada Pension Plan on the point you have made, but at any rate, it is at least something new. Here we are—

Dr. DAVIDSON: Here we are giving to retired civil servants exactly the same thing, giving them a reduced benefit—

Mr. KNOWLES: May I interrupt. Here you are starting *de novo*. You have no answer to that argument, but you are starting with two civil servants who knew

they could retire and there would be no diminution of their pension of either pension under the Superannuation Act?

Dr. DAVIDSON: Correct.

Mr. BELL (*Carleton*): Is it not really a vested right which we are now interfering with?

Dr. DAVIDSON: I think this is really a matter of opinion, Mr. Bell, as to whether in this whole rearrangement we are not interfering, if you want to use the expression, with rights that were previously vested in a law passed by the Parliament of Canada. The answer is, surely, that in every change we are making we are interfering with a vested right. Most of the other vested rights are not a subject of argument; this is a subject of argument, and I readily admit it is a matter of judgment as to whether in interference of this particular vested right we are dealing fairly in the circumstances with all those whose interests are affected. But it is no more an interference with a vested right in this instance than all the other interferences with other vested rights written in this whole piece of legislation.

Mr. KNOWLES: In the case of another vested right, namely, the right to retire at age 62, which carried with it the right to draw full pension at that point without having to work until age 65, there has been no change. I mention this, because it is an argument I would like to make, because they come back to me with the same argument: "That is O.K., if we understand it, but this other right that we had before we now lose."

Dr. DAVIDSON: The age 62, of course, is not affected by the advent of the Canada Pension Plan, because eligibility has not started. This is the distinction.

Mr. KNOWLES: To most employees who retire early there is an improvement. They want to know the pension they would have got and more to pick up when they are 65 to offset the deduction. This other group, however, will have to have some White Paper.

Perhaps at this point, Mr. Chairman, I should make a suggestion, that I made on second reading of the bill, that when we are through with all of this and this committee has finished and we return to the Civil Service organization, and so on, the Government should consider producing a White Paper that will answer these questions for the people. Civil servants are so numerous they are almost a public in themselves, and I would hope that a pretty useful White Paper could be prepared at that stage of the game.

Dr. DAVIDSON: I should say on that, Mr. Chairman, and Mr. Knowles, that I would endorse this as being a very worthwhile suggestion. I think I can say to Mr. Knowles that it is the intention of the authorities responsible for the administration of the Public Service Superannuation Act, once we know what you are going to do with the legislation, to produce a bulletin that will highlight for the employees who come under the plans the main points of concern and interest.

I think that we have to wait to prepare that until we know what the legislation is going to be in its final form. I think we shall also benefit from the kinds of discussion taking place here and in the passage of the bill through Parliament, because this will serve to highlight for us as well as others the

sensitive areas of concern in the Public Service, regardless of the change. We will produce something of that kind, I can assure you of that.

Mr. CHATTERTON: Mr. Chairman, we have been provided with examples of integration in P.S.S.A. Can we also have examples of the Armed Forces Act—at least, that one, according to your proposal?

The question I wish to ask is, why was age 65 chosen for the adjustment age? Why not, for instance, age 70? Was it related to the 1.3 calculation?

Mr. CLARK: The calculation was related to age 65, that being the normal age at which the Canada Pension Plan will become available within the next five years. Again through the use of this special provision the approach to this stage is gradual. But it was the fact that, to the majority of persons under C.P.P., would be applicable which led to its choice.

Mr. BELL (*Carleton*): Mr. Chairman, I wonder if it is the sense of the committee that we have perhaps pursued this particular stage as far as we can and that all of us would like to meditate upon it, and perhaps when we come back to this particular section in the committee we may have heard representations from the staff associations. Then we will be in a better position to take a final judgment on a matter which concerns me considerably.

Mr. HYMMEN: If an employee outside the Civil Service, in industry elsewhere, comes to retirement age and receives an income above a certain amount, is his pension deferred also?

Dr. DAVIDSON: It depends on his income from employment.

Mr. HYMMEN: Why should civil servants be treated differently from others?

Mr. KNOWLES: It is income from employment, not income from a pension.

Mr. HYMMEN: Income from employment after retirement age. Mr. Knowles is considered the champion of civil servants; and Mr. Bell and you, Mr. Chairman, (*Co-Chairman Richard*) and others have sizeable numbers of civil servants as constituents. We want to be fair but we have to consider other people.

Mr. ISABELLE: It is unfair to those civil servants who retire at 62.

Mr. KNOWLES: When you produce the White Paper, could you produce a formula which one could understand in 15 minutes? It took an hour to understand this one. This refers to a quantity multiplied by a certain figure, multiplied by 50. It appears that .7 per cent is the same thing. That is in clause 9.

Dr. DAVIDSON: I know what you are looking at. I did not understand it, either.

The Co-CHAIRMAN (*Mr. Richard*): Mr. Bell, on portability.

Mr. BELL (*Carleton*): Could we have a brief outline of the provisions relating to portability?

Mr. CLARK: Perhaps the most important provision is the amendment to section 28 of the act, which deals with the reciprocal transfer agreements with other employers. Hitherto, that has been confined to other governments, includ-

ing provincial and municipal. It has been extended also to universities and to groups of municipal employees.

The amendment to section 28, which is contained in clause 18 of this bill, page 23, will make it possible to have these agreements with any employer of a recognized type. Broadly speaking, what is contemplated and what has been followed in practice, in approving such pension plans in the past, is the qualification of that plan for income tax exemption privileges in relation to contributions.

Whereas today a reciprocal agreement could not be concluded with, for example, the Canadian Pacific Railway, this bill would make it possible. It is the same with any company with a pension plan recognized for these purposes.

The next provision, which may be of more interest to Mr. Knowles than to anyone else, introduces some of the terms contained in the portable pension legislation of Ontario, Quebec and Alberta which Dr. Davidson mentioned earlier.

This is regarded with mixed views. When you hear from the staff associations, you will learn this.

This provision appears in clause 11, page 16. It provides that, after a date to be fixed by the Governor in Council, the pension contributions (after that date) of civil servants will be locked in, if they have more than 10 years of service on ceasing to be employed and are then over the age of 45. This is the basic requirement in the legislation of the three provinces I have mentioned.

It really means reducing from age 60 to age 45 the age at which a person could leave and receive the full return of his contributions.

Other provisions on portability are indirect. There is power to count service under other circumstances than the act originally provided. There is power to deal with a new type of situation into which we will be running as a result of the portable pension legislation in the provinces, namely the locking in of the contributions under an existing private plan in a province. This means that an employee who comes to us from such an employer would be barred from counting his service, unless we had a reciprocal agreement with that employer. It could be that he has a certain fraction of his service to his credit locked-in with that employer's pension plan. An amendment to the act will make it possible to recognize and permit the employee to pick up that fraction of the service which is not locked in the plan of the previous employer.

There are some other small points here and there that can be regarded as improving the portability, but those are the main points.

Mr. BELL (*Carleton*): Would you go back to the original statement on the new definition of approved employer. Assume that Bell Telephone Company becomes an approved employer and I have 20 years service there and decide to enter the Public Service. What happens precisely in those circumstances? Also, may I put it in reverse, if I have had 20 years service with the government of Canada and wish to accept a position with Bell Telephone Company, what happens? How is it handled?

Mr. CLARK: If we had one of these agreements?

Mr. BELL (*Carleton*): Assuming one of these agreements, which I assume is the objective—that in the case of large employers this is what you would be seeking.

Mr. CLARK: Well, the typical agreement of which we now have perhaps in the order of twenty provides that the Government of Canada may pay to the pension plan of that other employer an amount of money out of the superannuation account equal or up to an amount equal to the contributions by the employee, the matching contributions by the Government, and the interest which has become due and credited during the years, provided that the plan to which that employee is transferred would have required an equal amount or equal contributions. If the two are on a par, there is a full transfer of funds and a full recognition of the service under out act, and vice versa. If the two are on a par there will be a transfer of the employer matching contributions and the interest to be paid over to the other superannuation account. If by chance the contribution rate under the other plan is less, then there is provision whereby the share of the excess contributions that the employee has paid into the superannuation account will be returned to him as a return of contributions. If by any chance there is an agreement with another employer where the employee has contributed to a less expensive plan, then in fairness to our own employees he should not get the full credit under our plan for a lesser contribution, but he is given the right to pay the difference and get full credit, or have a reduced credit if he does not wish to pay any additional funds.

Mr. BELL (*Carleton*): You say there are approximately twenty of these agreements in effect now?

Mr. CLARK: It is in that order. There has been an upsurge in the last two years.

Mr. BELL (*Carleton*): Since these are public property, would there be a copy available for the committee to see?

Mr. CLARK: They all follow one pattern. Perhaps we can arrange to have one available.

Mr. BELL (*Carleton*): If it is a standard form, I would like to have an opportunity to view one. Could it be filed with the Clerk?

Dr. DAVIDSON: There is just one small point on that. I don't know how the other parties regard the confidential nature of these documents. Would you be satisfied if we were to get the consent of the other parties or failing that if we were to give you a copy of a blank form?

Mr. TARDIF: Would it not be easier to get a blank?

Dr. DAVIDSON: We could phone another party who is quite near and seek his consent.

Mr. BELL (*Carleton*): Either alternative would be satisfactory. Perhaps the blank form will be most suitable.

Mr. KNOWLES: May I ask if in all these cases the employee when he retires gets one pension cheque, that is the employee who comes from a private plan to the Canadian Government?

Mr. CLARK: This is our objective. Unfortunately we have not in every instance succeeded in getting the other employer to agree to accept all the service that an employee might have under our act. Incidentally this has necessitated another one of the amendments to this act whereby if the other

employer, and I won't mention names, but if the other employer will not accept the full credit, then the employee can retain a deferred annuity credit under this act for the balance.

Mr. KNOWLES: Are there some cases that work in the other way, where an employer does want to turn over the funds?

Mr. CLARK: We don't put any bars.

Mr. KNOWLES: This is the reason you have to have the lock-in provision, is it not?

Mr. CLARK: That is one consideration, yes, although the two are independent really. You see, a lock-in is really related to the employee who moves to another employer or simply stops work and then he will have a deferred annuity credit here. If he goes under a transfer provision, that is quite independent of the locking-in.

Mr. KNOWLES: That is what I meant; the lock-in is provided where there wasn't a transfer of funds. You have been talking about the provision of the Ontario, Quebec and Alberta legislation. Are you going to give us a preview of what we will get here?

Dr. DAVIDSON: When you talk of Ontario, Quebec and Alberta, you are not talking of the Dominion of Canada.

Mr. CHATTERTON: I am not too clear on the workings of the provision as I see it here. It will occur compulsorily after 10 years?

Mr. CLARK: If a person has 10 years of service. Supposing the Governor in Council picks January 1, 1967 as the date under this clause, and a year later an employee left, and at that time he had 10 years' service, then the contributions he had made during 1967 would be locked in, but not those up to January 1, 1967. There has been a great deal of misunderstanding on that point and I might say we have had far more letters on that point than on the question of co-ordination or integration.

Mr. CHATTERTON: But from that date on all contributions will be locked in?

Mr. CLARK: That is provided he is over 45 at the time.

Mr. CHATTERTON: And has 10 years' service?

Mr. CLARK: Yes.

Mr. CHATTERTON: Until the future date when the federal Government passes a pension portability act, is that right?

Dr. DAVIDSON: On the date fixed by the Governor in Council.

Mr. KNOWLES: In this bill with respect to Government pensions what you are talking about is the regulations regarding private pensions in other organizations? Such as the CPR?

The Co-CHAIRMAN (*Mr. Richard*): Any other questions on the portability feature?

Mr. KNOWLES: When you say you would be reluctant to let us have a contract with other companies, could we have the names of the entities with which agreements have been made?

Mr. CLARK: Certainly, we could supply you with those on Monday.

The Co-CHAIRMANS (*Mr. Richard*): Does that cover the main section which you have picked out of the superannuation act and which is general to all acts?

Mr. BELL (*Carleton*): There is the death benefit on which we should have a little further explanation.

Mr. KNOWLES: Before you get to that, is the provision in section 12 regarding death within one year after marriage an instance of bringing the Public Service Superannuation Act into line with the Canada Pension Plan?

Mr. CLARK: If you read it closely you will see that we did a little improvement on the Canada Pension Plan, but substantially it is the same.

Mr. KNOWLES: Surely it has to be an improvement.

Dr. DAVIDSON: You don't have to be quite as dead under this plan.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions on this?

Mr. McCLEAVE: You can take it with you if you don't go.

The Co-CHAIRMAN (*Mr. Richard*): Does Mr. Clark want to make any other comments on the application of the Public Service Superannuation bill as it affects the armed forces at this time?

Mr. CLARK: No, not in relation to these parts.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. BELL (*Carleton*): Mr. Chairman, I would like to have a general statement from Mr. Clark or Dr. Davidson as to the changes in death benefits so far as the Public Service Superannuation Act is concerned.

Mr. CLARK: Mr. Bell, really the only change of great substance is the removal of the present ceiling of \$5,000, so that after this act comes into force it will effectively be either the salary of the employee, if the salary is the multiple of \$250, or the multiple of \$250 next above the salary. In other words, if an employee's salary were \$7,100 it would go up to \$7,250, and so on. This, of course, will mean that the contribution which the employee pays at the rate of 40 cents a thousand would go up from \$2 to, in that particular case, \$2.90.

Mr. CHATTERTON: For the first \$5,000?

Dr. DAVIDSON: No, \$7,250.

Mr. KNOWLES: There is no change in the 40 cents?

Mr. CLARK: No, not in so far as the civil servants are concerned. This has led to a number of consequential changes, but the principal changes are related to the dropping of the members of the regular forces from this part of the act and providing a separate provision of their own. Once again, there are one or two little anomalies that are being cleared up in relation to automatic coverage on retirement, but this is a remedial provision.

Mr. TARDIF: This provision applies to one who dies while in the service or somebody who dies while on pension?

Mr. CLARK: The increased protection or the higher level of benefit and contribution does not apply to a person who has already retired. However, I should explain—

Mr. KNOWLES: We always forget them.

Mr. CLARK: However, I should explain that the provision under the present act whereby the amount of benefit reduces gradually after age 60 still applies. In other words, it goes down by one-tenth, but it is still subject to the minimum paid-up benefit of \$500 which was introduced into the act a few years ago. So, that remains for all persons, but the step-down formula is still the same.

Mr. TARDIF: What happens to the man who pays this additional cost for this additional protection and goes on pension for five years and then dies?

Mr. CLARK: The premiums are in the nature of term insurance, whereby it is for a month at a time that you are providing protection.

Mr. KNOWLES: If you do not die you live!

Mr. CLARK: The paid-up benefit, for which the Government, incidentally, pays in full, is the one that is carried on into the future, no matter how long he lives.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: Mr. Clark referred to the fact this does not cover people already retired, and I am not going to ring the changes on that now, but I am sure, Mr. Chairman, you were delighted with Mr. Benson's answer to my question this morning in the house that he would not object to our being given terms of reference so we could discuss retired civil servants after we get the rest of this legislation through.

The Co-CHAIRMAN (*Mr. Richard*): That would be a very welcome suggestion.

Mr. BELL (*Carleton*): I would like to pursue one other matter in connection with this section of the bill. It may be Dr. Davidson would feel he should reserve it for the minister, and if he does I will quite understand.

I did express on second reading my concern at the provisions of the bill which substituted "Minister" for "Treasury Board" in every case where the term "Treasury Board" appears in the act. I expressed, I think, on second reading the feeling this was putting entirely into the hands of one minister what previously had been in the hands of Treasury Board, the opportunity to check error. If Dr. Davidson feels free to comment upon it, I would be glad if he did. If not, I would like to have it taken as notice that I do feel a real explanation of this change ought to be given to the committee.

Dr. DAVIDSON: Mr. Bell, could I perhaps not give a full explanation but open up the issue to some extent? I think it is not quite correct to state that in the amendment of the bill in all cases where "Treasury Board" has previously been referred to is substituted therefor "the Minister."

Mr. BELL (*Carleton*): With three exceptions, I think.

Dr. DAVIDSON: What we tried to do was to separate out those places where the Treasury Board reference seemed to have meaning in terms of a policy decision of some kind being required from those instances where it was a question of Treasury Board exercising a discretion with respect to an in-

dividual case. This arises in part, perhaps, out of my own preoccupation with doing what can be done to examine and implement the findings of the Glassco Commission, which, as you know, was quite critical of the fact an excessive number of fairly small decisions required the attention of the Treasury Board—some 16,000 submissions having to be made by departments annually to a committee of, theoretically, six ministers sitting for the purpose of deciding whether or not a pension payable to a surviving common law wife of a civil servant should in fact be paid to the common law wife or to the legal surviving widow, or divided between the two of them. My own conclusion, I must say—and I think I will have to take some of the blame for this—was that where there were decisions of what I thought were an administrative order or that involved discretionary judgment applied to an individual situation—where there were decisions of that kind to be made, it was more appropriate to make them the responsibility of the Minister responsible for the administration of the superannuation legislation; and that Treasury Board should not be required to take the individual decisions that were part and parcel of the day-to-day administration of the act and regulations, and that Treasury Board should be required to take decisions only where matters of more general importance were at issue. This was the principle which led to the substitution of “the Minister” for the “Treasury Board” in certain clauses where the term “Treasury Board” had appeared in the past, and the retention of the reference to the Treasury Board or the Governor in Council in certain other instances.

Mr. BELL (*Carleton*): Was any consideration given to any technique of review in such circumstances, or is the minister's decision to be considered final in each of these cases?

Dr. DAVIDSON: I cannot say truthfully there was consideration given to the establishment of an appeal tribunal in the supervision of the act, no.

Mr. BELL (*Carleton*): Based on some past experience with superannuation cases, I have some very considerable qualms about this. I think it wise that it should be considered in the first instance by a minister, but I think also there is a most salutary effect when it goes to the Treasury Board for review. I fear that you may get a lack of uniformity in administration because of considerable differences in attitude between one minister and another. I feel there is a greater uniformity of administration when you have three or four ministers considering it together in Treasury Board because things are then inclined to even out.

Dr. DAVIDSON: I did not understand your point about three or four different ministers.

Mr. BELL (*Carleton*): The fact that you have three or four different ministers in the Treasury Board who have before them the report of the Treasury Board's staff gives you, in effect, a dual review of the situation. My experience has been that Treasury Board decisions have generally greater uniformity than, perhaps, ministerial decisions standing alone.

Mr. CHATTERTON: Mr. Chairman, I should like to pursue a question that was raised this morning. I have been thinking about it and I am not satisfied with the answer given. I am referring to this whole question of the combined pension under the new formula in relation to the survivor benefits. By 1968 all those

employed in the Civil Service as of January 1 this year will have the benefit of the widow's pension.

Mr. CLARK: Yes, that is right. When you say "all" I point out that there is the provision that they must meet the qualification as to age and dependents. There is an eligible age bracket.

Mr. CHATTERTON: Yes, that is right. Generally speaking, the combined survivor benefits, after they become eligible, of the P.S.S.A. and the Canada Pension Plan are quite substantial. This derives from the fact that the best part of the Canada Pension Plan is the survivor benefit provisions. In your whole approach to this formula in which you arrive at the figure of 1.3 per cent, leaving the survivor benefits under the P.S.S.A. as they are, did you consider, for instance, using a larger percentage? In other words, did you consider generally increasing the pension of all, and generally reducing the survivor benefit of all? They would all still be better off so far as survivor benefit is concerned, except in the few cases you mentioned—those under 35, who have no dependents under the C.P.P. Was this question of generally raising this rate of 1.3 per cent, and reducing the survivor benefits, explored at all?

Mr. CLARK: We did consider a number of alternative approaches, and certainly one of the factors, as I understand it, that Mr. Ted Clarke and his colleagues in the Insurance Department included in their calculations was this very one. It would be better to have Mr. Clarke deal with that, if you wish him to. He knows the relevance of that factor in the overall calculation. But, I do know it was included.

Mr. CHATTERTON: May I ask, through Mr. Clark and the Insurance Department, what percentage of the demand on the fund is attributable under the P.S.S.A. to the survivor benefits of the P.S.S.A. in relation to the pension, for example? Is it a substantial percentage?

Mr. CLARKE: I would say the value of survivors' benefits is about 20 per cent of the value of the contributor's own benefits.

Mr. CHATTERTON: I was thinking, Mr. Chairman, that in integrating an actuarially sound funded plan and a non-funded plan you run into anomalies. To me, the greatest of all anomalies is in the fact that in certain cases a widow gets a pension that is greater than what her husband had been earning. This extreme anomaly makes it ridiculous. Generally, the survivor benefits are greatly improved in the combined plan from what they were before.

Dr. DAVIDSON: I think it is correct to say that you are also going to encounter situations where the combined pensions from all three sources for a retired living person will be greater than the earnings of that individual during his employment.

Mr. CHATTERTON: I did not get that.

Dr. DAVIDSON: It is also true, Mr. Chatterton, that we will encounter cases of where the combined benefits from all three plans—the Canada Pension Plan, the Public Service Superannuation Fund and the Old Age Pension—will be greater than the earnings of the individual while he was employed. These are anomalies that in the matching of two systems as complicated as these are beyond ingenuity to—

Mr. CHATTERTON: I should not complain. I am of the right age.

Dr. DAVIDSON: May I say to Mr. Bell that I will bring the point he has raised to the attention of Mr. Benson so that he will be in a position to comment on it at a later stage.

Mr. BELL (*Carleton*): Thank you, Dr. Davidson.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: I have two or three sort of pick-up questions, Mr. Chairman. On page 2 of the bill, section 3(1)(ba) seems to provide that from here on civil servants under the age of 18 shall not contribute to the Public Service Superannuation Fund. Does this affect very many people?

Mr. CLARK: No, it affects relatively few, Mr. Knowles. It is only to provide, as the notes indicate, a really complete co-ordination with the Canada Pension Plan under which, as you know, contributions do not commence until that age.

Mr. KNOWLES: This does not apply to any of the under 18 year-olds now working for the Government?

Mr. CLARK: They are excepted from this exception.

Mr. KNOWLES: How many are there?

Mr. CLARK: I have just exchanged glances with a representative of the Superannuation Branch, and I understand that they would not want to hazard a guess.

Mr. KNOWLES: There is a theoretical loss involved here—

Dr. DAVIDSON: We have not got them as young in the civil service as they have in the armed forces, judging from some of the statistics.

Mr. KNOWLES: On page 9, Mr. Chairman, I gather that the section that provides that the minister shall be able to recover annuities paid in error, refers only to the principal amount of such errors? There is no interest collected, is there?

Mr. CLARK: That is right.

Mr. KNOWLES: When we were talking about portability there was one question I should have asked. There cannot be portability, I take it, unless there is a reciprocal agreement between the Government and the other employer. An individual who works for a company that does not want to get into this cannot get his portability either way?

Mr. CLARK: If there is no agreement—well, not exactly. Supposing that we have no agreement with company A and an employee transfers. Under the provisions that have been in the act since 1947 he can elect to contribute for the pensionable service which he gave up on transferring. If it is ten years under the other plan then he can elect to contribute for that.

Mr. KNOWLES: But he has to pay?

Mr. CLARK: That is correct. He has to pay on the double rate basis, but the object of the reciprocal agreement is to get the other employer to transfer his portion.

Mr. KNOWLES: I know of a few cases of where an employee had left such a firm and got his money back, and then sought to obtain coverage here and then

found it was too costly. He might have had ten years service in, but on coming into the civil service he discovered that the money he received would only pay for four or five years.

Dr. DAVIDSON: You will find an interesting example of something approaching this on page 4, under subsection (EA). People have called this an omnibus bill, and I think this is the merry-go-round clause in the omnibus bill. Here is the case of a person who starts as a civil servant and transfers to an approved employer, and his contributions and the employer's contributions go to the fund of the approved employer. Then he leaves that approved employer and goes to another approved employer who has a scheme which is not related to that of the Government. In leaving the approved employer he takes a return of his contributions when he goes to the second outside employer. Then, he comes back into the Government service. This clause makes provision for him to be able to re-establish his period of service by redepositing, in effect, into the Superannuation Fund the value of the contributions which were originally transferred on his behalf to employer No. 2, and which he eventually got in cash by leaving employer No. 3.

Mr. KNOWLES: What about the case of any employee who leaves the Government and goes to a firm with which there is no reciprocal agreement and wants to put his money into that if that company permits it. What are the limitations of leaving his money here for a deferred annuity?

Mr. CLARK: If he has five years service he can leave his money for the annuity credit in the account.

Mr. CHATTERTON: At his option.

Mr. CLARK: Yes. If he had five years service with the Government.

Mr. KNOWLES: But still reciprocal agreements are preferable?

Mr. CLARK: That is correct.

Mr. WALKER: Have you agreements with other municipalities and provinces, and so on, say with provincial crown corporations; or is it necessary to have a reciprocal agreement covered in some other way?

Mr. CLARK: In Alberta we have an agreement with a provincial pension board which is responsible for all the people under a local authorities pension act, I think it is called, in the Province of Alberta.

Mr. KNOWLES: Are the Government ones you are citing now included in the 20 agreements?

Mr. CLARK: The municipal ones are under the present authority, but anything beyond would be under the new authority.

The Co-CHAIRMAN (*Senator Bourget*): Have you such agreements in the Province of Quebec?

Mr. CLARK: No. We could have an agreement with the City of Hull, for example, if that is desirable. We do have an agreement with the Province of Quebec, but not as yet with any of the municipalities.

Mr. WALKER: In other words, you deal directly with municipalities, not just through the provincial government?

Dr. DAVIDSON: The law authorizes us to do that.

Mr. CLARK: We are dealing at the provincial basis where there is a provincial law providing pensions for all the municipal employees. Currently we are dealing with such a board in the Province of Ontario, but negotiations are not complete.

Mr. WALKER: In the case of federal civil servants who are going to a particular area, has there been any attempt to get reciprocal agreements to accommodate them?

Dr. DAVIDSON: I think the consensus of our efforts to enlarge the coverage through reciprocal agreements will be centred very largely in the provinces which now or in the future enact their own portable pension legislation.

Mr. WALKER: Is the department able to take any initiative in connection with federal provincial conferences to have this type of thing on the agenda?

Mr. CLARK: Mr. Chairman, that has been done, yes, on more than one occasion.

Mr. LEOBE: I wonder if any thought has been given to a repository for all these funds so that one cheque would get to the individual in the final analysis? Is it not possible that the various cheques could be dealt with through a computer system, or something of that kind?

Mr. CLARK: I might say that both the Ontario and the Quebec legislation, certainly, and the Alberta legislation as well, contemplates this possibility. It has been urged upon all the other provinces, too, at such time as they may bring in such legislation. Whether or not the federal legislation would go that far I do not know, it remains to be seen.

Dr. DAVIDSON: I think it should be pointed out that the provincial authority seems to go on the assumption that they, the provincial government, will have the fund under their direct control in their legislation. I am sorry, Mr. Clark wants to correct me.

Mr. CLARK: No. They did contemplate the possibility of a countrywide fund. It can go either way, but they do not exclude the countrywide approach.

Mr. KNOWLES: Have any other provinces to your knowledge approached this kind of legislation other than the three you have named?

Mr. CLARK: They have all been represented at a series of conferences which we attended as well, and it would be unfair for me to speak about their plans.

Mr. KNOWLES: I have one more question. Comments have been made about the extended coverage effected by the various bills we have had before us. Are we reaching the stage where everybody who works for the Government is under a pension plan?

Mr. CLARK: I understand there is one with a provision up to 10,000 new contributors.

Mr. KNOWLES: Which provision, and who are they?

Mr. CLARK: This is in clause 3(2), where prevailing rate and seasonal employees are brought in automatically after six months, in the case of a prevailing rate, or after a cumulative six months in the case of the seasonal

employee. Previously this was subject to designation by the Treasury Board, and while the period has gradually been lowered and currently has been two years after becoming an employee, before these employees were designated, the designation has not been automatic. It is on the recommendations both of the advisory committee on this act and the Treasury Board prevailing rate advisory committee that this provision for coverage after six months has been proposed.

Mr. CHATTERTON: What percentage of the prevailing rate and seasonal employees have been designated in relation to those who have not been?

Mr. CLARK: Dr. Davidson says there are 40,000 altogether. I understand this would bring in 10,000. If we leave out those still in there for six months or for broken periods, I am not sure how many there would be.

Dr. DAVIDSON: I would say that more than half of the prevailing rate are covered, and that this will cover the additional number Mr. Clark spoke of.

Mr. CHATTERTON: I am not sure about this, but do I understand that those which have not been designated have been contributing at a lesser rate.

Mr. CLARK: At the same rate to the retirement fund.

The Co-CHAIRMAN (*Mr. Richard*): Any other questions?

Mr. BELL (*Carleton*): Can we now go on to the Canadian Forces?

Mr. McCLEAVE: Mr. Chairman, I was wondering if the provincial acts relating to this are simply on the reciprocal basis, that is, that they will enter into arrangements with other provinces with similar legislation.

Mr. CLARK: They permit transfer arrangements or the deferred annuity, but they do require one or the other in the case of a person over 45 years of age to which I referred.

The Co-CHAIRMAN (*Mr. Richard*): Shall we go on with the amendments, Mr. Clark, with respect to the members of the Canadian Forces?

Mr. CHATTERTON: Mr. Chairman, this morning I asked if examples could be prepared and I did not receive a reply in the affirmative.

The Co-CHAIRMAN (*Mr. Richard*): Some examples have been prepared of the Public Service Superannuation Act, I understand.

Mr. CLARK: The illustrative examples of this morning relate to the Public Service Superannuation Act. You will see that examples are not really too relevant in the case of the Canadian Forces Superannuation Act, when you hear the description from National Defence.

Dr. DAVIDSON: The significance of Mr. Clark's remarks will become apparent later.

The Co-CHAIRMAN (*Mr. Richard*): We now have Brigadier Lawson and Group Captain McLearn of the Department of National Defence.

Brigadier W. J. Lawson, Judge Advocate General, Department of National Defence: I have very little to add. The purpose of the bill is the same purpose in respect to the Canadian Forces Superannuation Act as it is in respect to the Public Service Superannuation Act, that is, to integrate it with the Canada Pension Plan, along much the same lines.

There are some other amendments dealing with minor anomalies in the C.F.S.A. which are included in the bill.

Mr. BELL (*Carleton*): First, in connection with the calculation of the period of service, section 40, page 37, I gather this fully takes care of the anomaly whereby wartime service was not counted at all as service in the regular forces. This will meet the considerable complaints I am sure Brigadier Lawson has had, as I have had.

Brigadier LAWSON: That is true.

Mr. BELL (*Carleton*): In connection with the problem of employment in the Public Service of those who have retired from the armed forces, this is now the problem under section 17(2), which section is being repealed and a new section is being inserted which gives the authority somewhat similar to that which there is in the R.C.M.P. Superannuation Act.

Would Brigadier Lawson outline what is contemplated would be done in this respect, when the authority is available?

Brigadier LAWSON: I am not able to do this. It is a question of Government policy which should be left to the minister.

Dr. DAVIDSON: May I interject, from the back, to suggest that this may be one of the questions which should be reserved for Mr. Benson.

Mr. BELL (*Carleton*): I appreciate it is a matter of Government policy but I have been trying to get the answer since the resolution stage and I am apparently no further than I was then. I want to serve notice now that I do not intend to be taken by surprise with some statement at the very last moment in the deliberations of this committee. I am not making complaint about Brigadier Lawson, because I appreciate this is not within his field of jurisdiction, but I think the minister has to come clean with this committee and not play footsie with us until the very last moment.

Mr. TARDIF: I do not think the minister should be accused of playing footsie.

Mr. BELL (*Carleton*): He was asked on the resolution stage and on the second reading in the House.

The Co-CHAIRMAN (*Mr. Richard*): Let us wait until events show what is happening. The minister has said he will come before us and I will see to it that he remains long enough to answer questions and not to evade, by his absence, the questions you want to put to him.

Mr. CHATTERTON: Could Brigadier Lawson compare integration here with the integration in the P.S.S.A.? There is a formula in the P.S.S.A. whereby the benefits will be calculated by 1.3 per cent up to \$5,000. Is there a similar formula?

Group Captain McLearn, Deputy Judge Advocate General, Department of National Defence: In general, the benefits available in the armed forces are different from what they are in the Civil Service, because our contribution is only 6 per cent, as compared with 6½ per cent paid by members of the Civil Service. The differences are not marked. The details can be provided.

Mr. CHATTERTON: Could Mr. Clark tell us what is the simple formula for calculation?

Mr. CLARK: This is a straight offset approach in so far as the members of the forces who are contributing under the Canadian Forces Superannuation Act are concerned. In other words, the full benefit under the present 2 per cent formula for each year of service is payable up until the age when the C.P.P. could become payable, nominally 65 or, on disability, from 1970. At that time the benefits would be reduced by the portion of the C.P.P. benefit which was attributable to the period of contribution while a member of the forces.

In other words, supposing you had a case where the armed forces pension was \$7,000 and the pension attributable to his service in the forces under the C.P.P. was \$600, the \$7,000 would simply be reduced at that stage by \$600. The \$600 would be payable under the C.P.P., but of course subject to the escalation which that plan provides from that stage on.

Mr. CHATTERTON: So it is simply a reduction of an addition of an equal amount?

Mr. CLARK: That is correct. As Group Captain McLearn indicated, the factors which entered into this, which were responsible for the complete exclusion of the members of the forces from C.P.P. last year, are really the high cost of the plan in relation to the contributions, which in turn arises out of the average low age at which pensions become payable. This was the source of the trouble.

Mr. CHATTERTON; And the survivor benefits under C.F.S.A. remain the same.

Mr. CLARK: The survivor benefit under all these acts is the same, in other words, one on top of the other.

Mr. CHATTERTON: How about those members of the armed forces who retire this year? There is no effect on them at all?

Mr. CLARK: The coming into force section has retroactive effect. The Minister of National Defence requested that this coverage be applied to, I think, all who were members of the forces on the 1st of January.

Mr. CHATTERTON: Are deductions being made now?

Group Captain McLEARN: We did make deductions, under special authority in the National Defence Act, of the amount that will be required under the C.P.P.

Mr. CHATTERTON: If he retires from the armed forces and is not eligible for C.P.P., he goes on to C.F.S.A.?

Group Captain McLEARN: That is right.

Mr. CHATTERTON: As soon as he becomes eligible for C.P.P., the adjustment takes place?

Group Captain McLEARN: Yes.

Mr. CHATTERTON: He receives the pension?

Mr. CLARK: Normally, it would be on obtaining age 65, but at that time he receives the C.P.P.

Mr. CHATTERTON: But it is at such time as he actually receives the Canada Pension Plan?

Mr. CLARK: Yes. That is why we call it an offset approach in that initial year. But in the succeeding years, depending on escalating factors under the Canada Pension Plan, the portion would be subject to automatic escalation.

Mr. CHATTERTON: The deduction would then be equivalent to the increase which by way of escalation would also be deducted?

Mr. CLARK: No. That factor and the additional survivors' benefits would, I think, be the main considerations in doing anything at all on this plan. As you may recall from the parliamentary committee of the Canada Pension Plan at that stage, we had not devised an acceptable approach.

Mr. CHATTERTON: May I ask do the same principles apply to the amendments to the other acts?

Mr. CLARK: This applies also to consideration of the R.C.M.P. Superannuation Act, but different considerations come into the acts mentioned later in the bill

Mr. KNOWLES: One of the main differences between this and the present Public Service Superannuation Act is that the offset is exactly the same amount, but there is no need for any clause that says you get it in the way of a make-up.

Mr. CLARK: There is such a clause—no, I am sorry, you are right.

Mr. KNOWLES: There is no need to apologize. Now, may I ask this? What happens in the case of a retired member of the forces who after his retirement from the forces worked at something else during the course of which he increased his Canada Pension Plan benefit at age 65? How do you calculate what portion of the Canada Pension Plan is deductible from his forces pension?

Mr. CLARK: This provision in each bill is left to the regulations. We had in mind, however, an approach similar to that which is contemplated under the Canada Pension Plan where you have to make such distributions in the case of a person who has been in employment in the Province of Quebec, say, and subsequently in the Province of Ontario. You have to make a split of his pension. The records are set up in such a way that such a determination can be made, and the same sort of approach would be followed here. Mind you, there will have to be some special provision in relation to the drop-out periods, and technical features like that. But that is the general order of the approach.

Mr. KNOWLES: I take it your aim is to see that only that portion of the retired serviceman's pension that was earned in the forces would be deducted?

Mr. CLARK: That's right.

Mr. KNOWLES: There are also some knotty problems posed by a transfer from the Canada to the Quebec Pension Plan. There is also the problem if a man retires at 55—or let us say two men retire at 55, and one man works for 10 years and another works only part of the time—this affects his total Canada Pension Plan calculation. How do you decide what portion of that Canada Pension Plan that he finally gets is the portion attributable to the time he was in the forces?

Mr. CLARK: This is a case where he does not work anywhere else after he retires?

Mr. KNOWLES: I am making it as difficult as I can for you. I am saying that he retires at 55 and during the next 10 years he works for five years but not for the other five.

Mr. CLARK: But we have exactly the same problem in relation to a person—

Mr. KNOWLES: —who does not work at all.

Mr. CLARK: —who was in Quebec until age 55, and moves to Ontario and works there for the period you have indicated. It is exactly the same situation.

Mr. KNOWLES: But how do you solve it?

Mr. CLARK: There is provision for doing it in the Canada Pension Plan. There is a fair amount of calculating involved and I do not know if you really wish to see the calculations.

Mr. KNOWLES: Maybe we could use some paper on it. I think I understand it. The man who retires at 55 knows from the statute what his forces pension is to be, but he does not know at that point what his Canada Pension Plan is going to be. Whether he works or does not work, the calculation at 65 has to take the entire situation into consideration. You have the problem, but it is no problem to the armed forces man who does not work because there will be an offset.

Mr. CLARK: That is right. I am not denying that there is a problem, and that a formula will have to be developed which should be in accordance with these division principles enunciated in the Canada Pension Plan, and which have to be applied to every individual who has had employment for a time in Quebec and for a time in the rest of Canada. We would, of course, be working in co-operation with the Canada Pension Plan administration on this.

Mr. KNOWLES: It is not unlike the difficulty of making rebates to employers. How do you assess the relative contributions? However I am satisfied if your aim is to deduct from the serviceman's pension only that portion of the Canada Pension Plan which he earned while he was in the forces.

Mr. CLARK: That is right.

Mr. CHATTERTON: A member retires from the armed forces and he gets his C.F.S.A. and then eventually he also gets his Canada Pension Plan adjustment. However that person has his C.F.S.A. and then he goes to work and he earns \$900 a year and there is a deduction from his C.F.S.A. accordingly. Do you make it up from the other?

Mr. CLARK: There is a similar provision in the Public Service Superannuation Act and you should consider it in the same light for the same reasons.

Mr. CHATTERTON: But you said that under the Public Service Superannuation Act if you continue to work on you suffer a reduction. My question in this case is after the adjustment takes place and he works and earns \$900 a year, over which amount there is a reduction of 50 cents for every dollar earned, do you make this up on his C.F.S.A. pension?

Mr. CLARK: No.

Mr. WALKER: Mr. Chairman, where a man has earned a certain amount from the Canada Pension Plan he has qualified for some Canada Pension Plan payment. Is it only the portion that comes from that plan which is geared to the cost of living?

Mr. CLARK: That is a provision in the Canada Pension Plan. There is no provision for escalation in any of these acts with which we are dealing in this bill.

Mr. BELL (*Carleton*): On the resolution stage and second reading I tried to persuade your minister that he should bring an escalation clause into this bill.

Mr. KNOWLES: There is no loss of the escalation?

Mr. CLARK: No, that is correct.

Mr. LEBOE: When the Canada Pension Plan came up I tried to keep it out of it.

Mr. CHATTERTON: In the case of the armed forces personnel, a member of the armed forces who earns less than \$5,000 a year, he does not get the maximum Canada Pension Plan benefit?

Mr. CLARK: No.

Mr. CHATTERTON: Say, while in the armed forces he is moonlighting and brings up his contribution rate to the \$5,000, does that affect it?

Mr. CLARK: No.

Mr. CHATTERTON: In other words, this is going to stop moonlighting for those under \$5,000 because it would not pay them?

Mr. CLARK: They would get an additional benefit from their moonlighting—that is what you are saying?

Mr. CHATTERTON: Yes.

Mr. CLARK: That is correct.

The Co-CHAIRMAN (*Mr. Richard*): If there are no other questions on that, I would like to ask the members of the committee if they want to conclude this general session or if they have any other questions to ask in relation to any of the other features of the act which are of similar application, as I understand it, as far as the R.C.M.P. and others are concerned.

Mr. CLARK: In the case of the R.C.M.P. it is an identical approach in relation to the Canada Pension Plan. In the case of the other two it is a variation of the approach taken on the earlier one.

Mr. McCLEAVE: May I suggest that we have copies of the examples given to us under each of the different acts as well as the P.S.S.A.?

Mr. CLARK: Yes, we can arrange that. We have tables available on the Diplomatic Act which could be distributed now, and we will have the others available at the beginning of next week.

The Co-CHAIRMAN (*Mr. Richard*): Is that satisfactory?

Hon. MEMBERS: Agreed.

Mr. BELL (*Carleton*): I think they should be distributed now.

The Co-CHAIRMAN (*Mr. Richard*): Yes, if you have them, we should have them distributed now.

The committee adjourned.

APPENDIX "A"

EXAMPLE OF APPLICATION OF INTEGRATION FORMULA TO AN
ILLUSTRATION EXPLAINED TO THE SPECIAL JOINT COMMIT-
TEE OF THE SENATE AND HOUSE OF COMMONS EXAMIN-
ING THE CANADA PENSION PLAN

	Mr. C.
(1) Public Service Superannuation Act average salary (best of 6 years)	6,600
(2) Maximum CPP benefit salary (average last 3 Y.M.P.E.'s)	7,000
(3) Service after inception of C.P.P.	19
(4) Service before inception of C.P.P.	10
(5) Total service (line 3 plus line 4)	29
(6) 2% formula benefit under present Act ^(a)	3,828
(7) 1.3% formula benefit ^(b)	2,950
(8) C.P.P. pension ^(c)	1,650
(9) Combined pension (line 7 plus line 8)	4,600
(10) Increase in combined pension over 2% formula benefit (line 9 minus line 6)	772
(11) Line 10 expressed as a percentage of line 6	20.2

^(a) The benefit under this formula is—total years of service \times 2% \times average salary.

For Mr. C.: 29 years \times 2% \times \$6,000 = \$3,828 p.a.

^(b) The benefit under this formula is—years of service before inception of C.P.P. \times 2% \times average salary plus years of service after inception of C.P.P. \times 1.3% \times average salary not exceeding the maximum C.P.P. benefit salary plus years of service after inception of C.P.P. \times 2% \times average salary in excess of maximum C.P.P. benefit salary.

For Mr. C.: 10 yrs. \times 2% \times \$6,600 + 19 yrs. \times 1.3% \times 6,600 = \$2,950 p.a.

^(c) The maximum C.P.P. benefit in the year of retirement is 25% of the average of the Y.M.P.E. in the year of retirement and the Y.M.P.E.'s for the previous 2 years. Mr. C's Public Service Superannuation Act benefit salary is 6600/7000 of the maximum C.P.P. benefit salary. Hence Mr. C's C.P.P. benefit is assumed to be 6600/7000 of 25% of 7000 or \$1,650 p.a. (The actual C.P.P. benefit in this example is \$1,621.92 p.a. knowing the full details of the contributor's employment history under the C.P.P.)

APPENDIX "B"

EXAMPLES OF APPLICATION OF INTEGRATION FORMULA

	Mr. A	Mr. B
(1) Final salary	3,600	6,000
(2) Average salary (best 6 years)	3,300	5,500
(3) Service after inception of C.P.P.	20	20
(4) Service before inception of C.P.P.	10	10
(5) Total service (line 3 plus line 4)	30	30
(6) 2% formula benefit under present Act ^(a)		
—from ages 60 to 64 inclusive	1,980	3,300
—after age 64	1,980	3,300
(7) 1.3% formula benefit ^(b)		
—from ages 60 to 64 inclusive	1,980	3,300
—after age 64	1,518	2,600
(8) C.P.P. pension at age 65 ^(c)	825	1,250
(9) Combined pension at age 65 (line 7 plus line 8)	2,343	3,850
(10) Increase in combined pension over 2% formula benefit (line 9 minus line 6)	363	550
(11) Line 10 expressed as a percentage of line 6	18.3	16.7

(a) The benefit under this formula is—total years of service \times 2% \times average salary.

For Mr. A: 30 yrs. \times 2% \times \$3,300 = \$1,980 p.a.

For Mr. B: 30 yrs. \times 2% \times \$5,500 = \$3,300 p.a.

(b) The benefit under this formula is—from ages 60 to 64: total years of service \times 2% \times average salary after age 64: years of service before inception of C.P.P. \times 2% \times average salary plus years of service after inception of C.P.P. \times 1.3% \times average salary not exceeding the C.P.P. maximum plus years of service after inception of C.P.P. \times 2% \times average salary in excess of C.P.P. maximum.

For Mr. A: from ages 60 to 64: 30 yrs. \times 2% \times \$3,300 = \$1,980 p.a.

after age 64: 10 yrs. \times 2% \times \$3,300 +
20 yrs. \times 1.3% \times \$3,300 = \$1,518 p.a.

For Mr. B: from ages 60 to 64: 30 yrs. \times 2% \times \$5,500 = \$3,300 p.a.

after age 64: 10 yrs. \times 2% \times \$5,500 +
20 yrs. \times 1.3% \times \$5,000 (assumed C.P.P.
maximum) + 20 yrs. \times 2% \times \$500 =
\$2,600 p.a.

- (c) The C.P.P. benefit is 25% of an average salary (which is assumed to be the average of the best 6 years in this example) not exceeding the C.P.P. maximum (which is assumed to be \$5,000 in this example). The C.P.P. benefits payable in these examples would be less if contributions under the C.P.P. were discontinued before the contributor's 65th birthday due, for instance, to retirement from the Public Service without subsequent employment.

For Mr. A: $25\% \times \$3,300 = \$ 825$ p.a.

For Mr. B: $25\% \times \$5,000 = \$1,250$ p.a.

APPENDIX "C"

DIPLOMATIC SERVICES (SPECIAL) SUPERANNUATION ACT

*Examples of Application of Integration Formula**(Retirement at Age 65)*

	Mr. A	Mr. B
(1) Final Salary	10,000	10,000
(2) Average Salary (last 10 years)	9,000	9,000
(3) Service after January 1, 1966	10	20
(4) Service before January 1, 1966	5	5
(5) Total Service (line 3 plus line 4)	15	25
(6) Benefit under present Act ^(a)	5,400	6,300
(7) Benefit under proposed integration ^(b)	4,400	4,800
(8) C.P.P. benefit at age 65 ^(c)	1,250	1,250
(9) Combined pension at 65 ^(d)	5,650	6,300
(10) Increase in combined pension \$	250	0
%	4.6	0

^(a) The benefit formula under the present Act for,—Mr. A: $25 \times \text{average salary plus } 1 \times \text{average salary} \times \text{years of}$ $\frac{50}{50}$ $\frac{50}{50}$

service in excesss of ten or,

 $25 \times \$9,000 + 1 \times \$9,000 \times 5 = \$5,400$ per annum $\frac{50}{50}$ $\frac{50}{50}$ —Mr. B: $35 \times \text{average salary or } 35 \times \$9,000 = \$6,300$ per annum $\frac{50}{50}$ $\frac{50}{50}$ ^(b) The proposed benefit formula provides for a reduction at age 65 or later of 2% for each of the first ten years of service after January 1, 1966 and 1% for each year in excess of 10, after January 1, 1966, on salary up to the Canada Pension maximum subject to the guarantee that the combined pension will not be less than that presently provided for in the Act for,—Mr. A: $5400 - 20\% \times \$5,000 = \$4,400$ —Mr. B: $6300 - 30\% \times \$5,000 = \$4,800$ (See note (d))^(c) The Canada Pension Plan pension is 25% of an average salary not exceeding the C.P.P. maximum (which is assumed to be \$5,000 in this example) for,—Both Mr. A and Mr. B.— $25\% \times \$5,000 = \$1,250$ per annum.^(d) For Mr. A: the sum of line 7 and line 8

For Mr. B: the sum of line 7 and line 8 is only \$6,050 per annum so the guarantee provides for a total pension of \$6,300 per annum. This would have the effect of changing the pension under the Diplomatic Services (Special) Superannuation Act for Mr. B on line 7, shown at \$4,800, to \$5,050 per annum.

APPENDIX "D"

MEMORANDUM OF AGREEMENT DATED
THE 10th DAY OF December A.D. 1962

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, represented by
the Minister of Finance, hereinafter referred to as "the Minister",

OF THE FIRST PART;

AND

LAVAL UNIVERSITY, hereinafter referred to as "the University",

OF THE SECOND PART.

WHEREAS section 28 of the Public Service Superannuation Act, chapter 47 of the Statutes of Canada 1952-53, (hereinafter referred to as "the Act") authorizes the Minister, with the consent of the Governor in Council and in terms approved by the Treasury Board, to enter into an agreement with a "public service employer"; and

WHEREAS the terms of this agreement have been approved by the Treasury Board by Treasury Board Minute T.B. 603439 of November, 15th, 1962, and the consent of the Governor in Council to enter into this agreement has been obtained by Order in Council P.C. 1962-5/1643 of November 22nd, 1962; and

WHEREAS the University is a "public service employer" within the meaning of section 28 of the Act aforesaid; and

WHEREAS the Senate of the University has approved the terms of this agreement and has by resolution authorized the Rector and Bursar of the University to enter into this agreement with Her Majesty in right of Canada.

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereto, in consideration of the covenants and agreements hereinafter contained, covenant and agree with each other as follows:

1. The University will pay or will direct to be paid an amount computed in accordance with clause 2 into the Superannuation Account in respect of an employee who contributes under the University Plan and who,

- (a) after the 1st day of July, 1960, ceased or ceases to be employed by the University to become employed in the Public Service,
- (b) became or becomes employed in the Public Service within three months from the time ceased or ceases to be employed by the University,
- (c) has not received or does not receive any amount as a return of contributions under the University Plan,

- (d) passes a medical examination as prescribed by the Minister, and
- (e) executes two documents in the form of Appendix "A" and, within six months of the date of this agreement or within one year of becoming a contributor to the Superannuation Account, whichever is later, delivers one to the University and one to the Minister.

2. The amount which the University will pay or will direct to be paid, pursuant to clause 1, is the lesser of

- (a) an amount equal to twice the amount which, under the Act, would, in the opinion of the Minister, be required to be paid into the Superannuation Account by the employee to purchase a period of pensionable service under the Act equal to the period of service in respect of which the employee contributed under the University Plan, calculated by the Minister as if the employee had been a contributor under the Act during the said period of service and as if the salary payable to the employee in respect thereof were equal to the salary that was actually paid to him during that period, together with interest at a rate equal to the rate which, in the opinion of the Minister, is or was payable under the Act during the said period of service calculated from the middle of each fiscal year in the said period of service to the date of payment by or on behalf of the University into the Superannuation Account; or
- (b) an amount equal to the aggregate of amounts that, under the University Plan, would, in the opinion of the University, stand to the credit of the employee under the University Plan for the period of service in respect of which the employee contributed under the University Plan, calculated by the University as if the salary payable to the employee during that period were equal to the salary that was actually paid to him, together with interest at a rate of four per cent per annum, compounded annually, calculated from the middle of each fiscal year in that period to the date of payment by or on behalf of the University into the Superannuation Account.

3. Where the University is required by clause 1 to make a payment or to direct that payment be made into the Superannuation Account, the University shall, subject to clause 5, make the payment or direction within six months from the time it receives from the employee concerned a completed document in the form of Appendix "A".

4. Where, in accordance with clause 3, payment is made into the Superannuation Account in respect of an employee, the period of service in respect of which the employee had been contributing under the University Plan prior to the time he left his employment with the University, may, subject to clause 5, be counted by the employee as pensionable service for the purposes of subsection (1) of section 5 of the Act without further contribution by him, except as provided in this agreement.

5. The service of an employee referred to in clause 4 that may be counted as pensionable service for the purpose of subsection (1) of section 5 of the Act will be determined as follows:

- (a) where the amount calculated under paragraph (a) of clause 2 is equal to or is less than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid into the Superannuation Account, the employee in respect of whom the payment is made may count as pensionable service the period of service in respect of which he contributed under the University Plan, and any excess amount held in respect of the employee and not required to be paid into the Superannuation Account will be dealt with, subject to the University Plan, in accordance with an agreement between the University and the employee; and
- (b) where the amount calculated under paragraph (a) of clause 2 is greater than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid into the Superannuation Account, the employee in respect of whom the payment is made may count as pensionable service only that portion of the period of service in respect of which he contributed under the University Plan that one-half of the amount paid in respect of him will purchase, when applied to that part of his service under the University Plan which is most recent in point of time, calculated by the Minister in accordance with the rate or rates of contribution applying from time to time under the Federal Act in respect of a corresponding period of current service as if
 - (i) the employee were a contributor under the Federal Act during the said period of service, and
 - (ii) the salary payable to the employee in respect thereof were equal to the salary that was actually paid to him during that period, together with interest at a rate equal to the rate which, in the opinion of the Minister, is or was payable under the Federal Act during the said period of service calculated from the middle of each fiscal year in the said period of service to the date of payment by the University into the Superannuation Account.

6. The employee may count all or any part of the remainder of the period of service that he was entitled or eligible to count as service under the University Plan and that may not be counted as pensionable service under paragraph (b) of clause 5 if he elects to pay for it an amount calculated by the Minister as follows:

- (a) where the employee within six months from the time he is advised of the extent of the said remainder, so elects, the amount shall be twice an amount calculated in the manner described in paragraph (b) of clause 5, and
- (b) where the employee, after the period mentioned in subclause (a), so elects, the amount shall be calculated as if paragraph (j) of subsection (1) of section 6 of the Federal Act applied to the employee.

7. The Minister will, subject to clause 12, pay an amount computed in accordance with clause 8 to the University for pension purposes in respect of a contributor to the Superannuation Account who,

- (a) after the 1st day of July, 1960, ceases or ceased to be employed in the Public Service to become employed by the University,

- (b) became or becomes employed by the University within three months from the time he ceased or ceases to be employed in the Public Service,
- (c) has not received or does not receive any amount as a return of contributions under the Act,
- (d) passes a medical examination as prescribed by the University, and
- (e) executes two documents in the form of Appendix "B" and, within six months of the date of this agreement or within one year after the first deduction under the University Plan, whichever is later, delivers one to the Minister and one to the University.

8. The amount payable in respect of an employee to whom clause 7 applies shall be equal to the lesser of

- (a) an amount equal to the aggregate of the amounts that, under the University Plan, would, in the opinion of the University, be required to be contributed by the employee and by the University under the University Plan in respect of the period of pensionable service to the credit of the employee under the Act (taking into account clause 10), calculated by the University as if deductions had been made from the salary of the employee under the University Plan during the said period of pensionable service and as if the salary payable to the employee during that period were equal to the salary that was actually paid to him or that, under the Act, is or was deemed to have been received by him, whichever is relevant, together with interest at a rate of four per cent per annum compounded annually, calculated from the middle of each fiscal year in the said period of pensionable service to the date of payment by the Minister to the University; or
- (b) an amount equal to twice the amount which under the Act, would in the opinion of the Minister, be required to be paid into the Superannuation Account by the employee to purchase a period of pensionable service under the Act equal to the period of pensionable service to the credit of the employee under that Act (taking into account clause 10), calculated by the Minister as if that period of pensionable service were current service and as if the salary payable to the employee during that period were equal to the salary that was actually paid to him or that, under the Act, is or was deemed to have been received by him, whichever is relevant, together with interest at a rate equal to the rate which, in the opinion of the Minister, is or was payable under the Act during the said period of pensionable service, calculated from the middle of each fiscal year in the said period of pensionable service to the date of payment by the Minister to the University.

9. An employee in respect of whom payment in accordance with clause 10 is to be made who

- (a) immediately prior to the time he ceased to be employed in the Public Service was making or required to make payments by instalments into the Superannuation Account in respect of a period of prior

service that he was entitled or eligible to count as pensionable service under the Act, and

(b) has not made all the said payments, shall be deemed to have to his credit a portion only of that period of pensionable service equal to the portion thereof that the actual amount paid by him into the Superannuation Account will purchase calculated by the Minister under the relevant provisions of the Act.

10. Where the Minister is required by clause 7 to make a payment to the University, he shall make the payment within six months from the time when he receives from the employee concerned a completed document in the form of Appendix "B".

11. Where, in accordance with clause 10, payment is made by the Minister to the University in respect of an employee, subject to clauses 9 and 12, the period of service of that employee that at the time he left his employment in the Public Service he was entitled to count as pensionable service for the purposes of the Act may be counted by that employee as a period of service in respect of which contributions have been made under the University Plan without further contribution by him, except as provided in this agreement.

12. The pensionable service of an employee referred to in clause 11 that may be counted as a period of service in respect of which contributions have been made under the University Plan will be determined as follows:

- (a) where the amount calculated under paragraph (a) of clause 8 is equal to or is less than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid by the Minister to the University, the employee in respect of whom the payment is made may count as a period of service in respect of which contributions have been made under the University Plan all the period of pensionable service to his credit under the Act (taking into account clause 9) and any excess amount held in respect of the employee and not required to be paid by the Minister to the University will be dealt with, subject to the Act, in accordance with an agreement between the Minister and the employee; and
- (b) where the amount calculated under paragraph (a) of clause 8 is greater than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid by the Minister to the University, the employee, in respect of whom the payment is made, may count as a period of service in respect of which contributions have been made under the University Plan only that portion of the period of pensionable service to his credit under the Act (taking into account clause 9) that the amount paid in respect of him will purchase calculated in such manner as the University Plan may provide.

13. (1) This agreement may be terminated by either party by notice in writing given to the other party by registered mail at least one year before the date of termination specified in the notice.

(2) Where the agreement is terminated in accordance with subclause (1), such termination shall have effect with respect only to employees who become employed

(a) in the Public Service following employment with the University, or

(b) with the University following employment in the Public Service on or after the specified date of termination.

(3) Where a notice of termination is given, nothing in subclause (1) shall be deemed to affect the operation of this agreement with respect to employees who become employed

(a) in the Public Service following employment with the University, or

(b) with the University following employment in the Public Service prior to the specified date of termination and, with respect to such transfers of employment prior to the specified date of termination, all the obligations of the parties to this agreement shall continue as if notice of termination had not been given.

14. This agreement is subject to the Act and to the University Plan.

15. In this agreement,

(a) "Act" includes, where relevant, the Civil Service Superannuation Act, chapter 50 of the Revised Statutes of Canada, 1952;

(b) "current service" means any period of service that was or that might be counted by an employee as pensionable service under the Act and in respect of which the employee contributed or contributes currently to the Superannuation Account;

(c) "employee" includes professor, officer and clerk;

(d) "fiscal year" means the period from the 1st day of April in one year to the 31st day of March in the next year;

(e) "opinion of the University" means with respect to the expression of any opinion by the University for the purposes of this agreement, the opinion expressed on behalf of the University by the Bursar thereof;

(f) "prior service" means any period of service that was counted by an employee as pensionable service under the Act and in respect of which the employee did not contribute currently to the Superannuation Account;

(g) "Public Service" means the Public Service as defined in the Act;

(h) "Superannuation Account" means the Account referred to in the Act as the Superannuation Account;

(i) "University Plan" means the Pension Plan for the employees of the University that came into force on the 1st day of July, 1962 and includes, where relevant, the pension plan for employees of the University in force prior to the 1st day of July, 1962;

(j) words importing the masculine gender include the feminine gender; and

(k) words in the singular include the plural and words in the plural include the singular.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be signed and sealed on the day and year first above written.

(Sgd) Ruby Meabry
Witness

(Sgd) George Nowlan
Minister of Finance of Canada

LAVAL UNIVERSITY

(Sgd) Jacques St-Laurent
Witness

(Sgd) Msgr. Louis Albert Vachon, P.A.
Rector

(Sgd) Girard Marceau
Witness

(Sgd) Emile Jobidon, ptre
Bursar

APPENDIX "A"

To: Laval University,
Quebec, P.Q.

and

To: The Minister of Finance,
Government of Canada,
Ottawa, Ontario.

I of in the
..... of in the
Province of,

(a) hereby request Laval University to make payment or direct that payment be made into the Superannuation Account of the Government of Canada in respect of me in accordance with and pursuant to the agreement entered into

on the day of A. D. 196 , between the Government of Canada and Laval University; and

(b) in consideration of the payment referred to in paragraph (a) being made, I hereby release and forever discharge Laval University from all manner of actions, causes of action, suits, debts, accounts, covenants, claims and demands whatsoever which against the said University, I ever had, now have, or which my heirs, executors, administrators or assigns, or any of them, hereafter can, shall or may have for or by reason of any pension, return of contributions or other like benefit that I, or any other person, may be, or at any time become, entitled or eligible to receive because of contributions made by me, or on my behalf, to the pension plan of Laval University or because of my employment with the said University, or both.

Signed and Sealed the day
of A.D. 196 , in the
presence of

APPENDIX "B"

To: The Minister of Finance,
Government of Canada,
Ottawa, Ontario.

and

To: Laval University,
Quebec, P.Q.

I of in the
..... of in the
Province of,

(a) hereby request the Minister of Finance of Canada to make payment to Laval University in respect of me in accordance with and pursuant to the agreement entered into on the day A.D. 196 , between the Government of Canada and Laval University; and

(b) in consideration of the payment referred to in paragraph (a) being made, I hereby release and forever discharge Her Majesty the Queen in right of Canada from all manner of actions, causes of action, suits, debts, accounts, covenants, claims and demands whatsoever which against Her Majesty I ever had, now have or which my heirs, executors, administrators or assigns, or any of them, hereafter can, shall or may have for or by reason of any pension, return of contributions or other like benefit, that I, or any other person, might have been granted or that I or any other person may be, or at any time become, entitled to receive because of contributions made by me, or on my behalf, into the Superannuation Account of the Government of Canada, or because of my employment in the Public Service of Canada, or both.

Signed and Sealed the day
of A.D. 196 , in the
presence of
_____ }

APPENDIX "E"

*Employers with whom the Minister of Finance has Entered into
Reciprocal Transfer Agreements*

<i>Employer</i>	<i>Date of Agreement</i>
Government of the Province of British Columbia ..	June 24, 1955
Government of the Province of Quebec	March 14, 1962
Government of the Province of Alberta	May 30, 1962
Public Service Pension Board of the Province of Alberta (hospitals, counties, municipalities, cities, etc.)	July 26, 1965
Government of the Province of Saskatchewan	April 27, 1964
Government of the Province of New Brunswick ...	August 31, 1965
Government of the Province of Ontario	May 16, 1966
Bank of Canada	May 21, 1954
Central Mortgage and Housing Corporation	August 3, 1954
Canadian Arsenal Limited (became part of Public Service January 1, 1962)	May 12, 1955
Canadian National Railway Co.	December 31, 1955
Canadian National (West Indies) Steamships Limited	August 8, 1958
City of Ottawa	December 27, 1957
Eldorado Mining and Refining Limited (subsidiaries —Northern Transportation Co. Ltd. and Eldorado Aviation Ltd.)	July 3, 1962
Air Canada	December 14, 1962
McGill University	December 4, 1961
Waterloo Lutheran University (operating Waterloo University College, and Waterloo Lutheran Semi- nary)	April 17, 1962
Carleton University	July 27, 1962
Laval University	December 10, 1962
Board of Administrators, Alberta Teachers' Retire- ment Fund	May 2, 1966
University of Waterloo	May 21, 1966

First Session—Twenty-seventh Parliament

1966

PROCEEDINGS OF
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

MONDAY, JUNE 20, 1966

WITNESSES:

Mr. Lloyd Walker, President, The Association of Canadian Forces Annuity; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance; Mr. T. F. Gough, President, and Mr. W. Doherty, National Secretary, Civil Service Association of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mrs. Quart,
Mr. Roebuck—(12).

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Caron,
Mr. Chatterton,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Faulkner,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,
Mr. Lachance,

Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Orange,
Mr. Ricard,
Mr. Rinfret,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—(24).

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, June 20, 1966.

(4)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 10.03 a.m. this day, the Joint Chairman, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: Honourable Senators Bourget, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Caron, Chatterton, Keays, Knowles, Leboe, McCleave, Munro, Orange, Ricard, Richard, Tardif, Walker (13).

In attendance: Mr. Lloyd Walker, President, The Association of Canadian Forces Annuitants; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance; Mr. T. F. Gough, President, and Mr. W. Doherty, National Secretary, Civil Service Association of Canada.

The Committee heard a brief on behalf of retired members of the Canadian forces who wish to have present legislation changed so that they may retain their full Service pension while employed in the Public Service.

The questioning of the witnesses concluded on this point, the Committee then heard the brief from the Civil Service Association of Canada and questioned the witnesses thereon.

At 12.20 a.m., the Joint Chairmen adjourned the meeting to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

OTTAWA, Monday, June 20, 1966.

The Co-CHAIRMAN (*Mr. Richard*): Order. We have with us this morning Mr. Lloyd Walker, who has representations to make on behalf of the Association of Canadian Forces Annuitants. Mr. Walker, would you like to make a statement to the committee? Perhaps touching on the subject I mentioned to you before, you will explain to the members of the committee how you come into this arena this morning on an amendment to the Superannuation Act as it concerns the Canadian Forces Superannuation Act.

Mr. Lloyd Walker, President, Association of Canadian Forces Annuitants: Mr. Chairman, ladies and gentlemen, if I appear nervous it is because I am. I cannot speak on how we got into this omnibus bill. All I know is that the Government has seen fit to put the amendment to the C.F.S.A. section 17(2) in this bill. I do not think there is any direct connection other than it does affect pension plans.

My presentation this morning is based on principle, and the principle is simply this, that for the last 20 years everybody, all ranks in the Armed Forces have paid 6 per cent of their income into the Canadian Forces Superannuation Act. However, under section 17(2) of the act flight-sergeants and below or staff sergeants and below can work for the federal Government without any restriction. They can earn any salary in the Civil Service of Canada and the Public Service and draw their full pension. However, warrant officers and officers, for some reason which has not been explained to us as yet, have restrictions placed upon the amount of income they can earn while working for the federal Government.

The principle involved as far as we are concerned in it is that we pay the same percentage of our income into the act, into the superannuation account, and therefore we are entitled to exactly no more and no less than everybody else. However, this restriction has in effect forced people of officer status—

Mr. CARON: What do you mean “no more and no less”?

Mr. WALKER: We are asking for no restriction, the same as applies to flight sergeants and below and staff sergeants and below.

Mr. CARON: But you said you were receiving no more or no less.

Mr. WALKER: I started on a principle, and I am staying with it.

Mr. TARDIF: Do you mean you would eliminate the 40 per cent, for example, when they try exams?

Mr. WALKER: No, there is no 40 per cent in trying exams. Now we are into another act; this is another act.

The Co-CHAIRMAN (Mr. Richard): Order. I suggest at this time that we would like to get the story first from the witness and then question him.

Mr. WALKER: This service preference is a myth, and I have only learned it to be so since I have been in the Civil Service.

We are asking for no restriction. In other words, we are recommending, and our association was formed for the sole and express purpose of deleting section 17(2). That is the only aim we have.

Now, in our presentations to the Government we have run into no complete answer in support of section 17(2) other than it is on the books. This is the main reason for applying it so far as we have been able to ascertain. I am in an awkward position by not knowing what the minister is recommending in the way of regulation, but the fact that he is recommending regulations indicates that he is doing something less than a complete deletion of section 17(2). So that we feel that the correction will be one of degree and not one of principle.

Under section 17(2) we feel that a man's pension is determined by two main factors. One is the years of service, the other is his ability to progress. Both factors are equally important, in that one man could spend 20 or 25 years in the service and end up a corporal, and another man could spend 25 years and end up Chief of the Air Staff.

Any formula that restricts the incentive to progress says to me that you are placing a premium on mediocrity. I think that it is not in the Public Service interest to emphasize years of service only and I am afraid that formulas which come up, in my talks with Dr. Davidson, years of service seemed to predominate in the discussion. He is more interested in how long you have been in the service than in your ability, your capability to progress while in the service.

If the Civil Service is short, as we are informed they are, of mid-management personnel, any restrictions placed on this level is precluding people joining the Civil Service while they can go to provincial governments, to industry or to any other employment without any loss of pension.

I believe, and our association believes, that the only corrective action that should be taken in this matter is a complete deletion of section 17(2).

This is taken care of in clause 47, in which it says that sections 17(2) and (3) are to be deleted; and our answer to the problem is "period". This is the correct action to take, in our opinion; and we feel that any further regulation is discriminatory.

It is a question of degree as to how discriminatory it is, but if you believe in restriction on people who are putting the same amount of money in, you are applying discrimination to one of them.

Mr. CARON: When you speak of "section", it is the old act?

Mr. WALKER: This is the Canadian Forces Superannuation Act.

Mr. CARON: The old act, not the new act?

Mr. WALKER: Under the one as it is laid before you.

Mr. KNOWLES: I wonder if we could have that clear, that this bill, by clause 47, does repeal subsections (2) and (3) of the old section 17. I gather what the witness is drawing our attention to is that, by clause 51(2) something is put in

its place. Is that something that is to be put in its place the thing that you are concerned with?

Mr. WALKER: That is right, sir.

The Co-CHAIRMAN (*Mr. Richard*): That is what I have been anxious to have the witness explain. We are aware of the fact that sections 17(2) and (3) are to be repealed. We want to know how the bill affects you, on section 51, and I wish you would come to that point.

Mr. WALKER: I would like to get to that, if Mr. Minister has seen fit to let us know what his regulation would be that he proposes. Then I could speak with some authority. At the moment I know nothing more of section 51 than you do. We have not been given his confidence in this matter. Therefore, I cannot surmise what regulation he is going to propose. I was hoping that Mr. Benson would outline this proposal at the opening session of the committee meeting. Therefore, I would be able to speak directly to that regulation as it affects us.

At the moment, I can only say that any proposal violates the principle. By what degree will depend on the proposal that the minister puts forward. I think it would clear the air a great deal if we could have the terms of this regulation at this time.

Mr. BELL (*Carleton*): What is the position in other countries? No doubt, this same situation arises elsewhere, where retired members of the armed forces who are on pension enter the Public Service of that country. Could the witness tell us what the position is in, say, the United States, Great Britain, Australia or any other countries?

Mr. WALKER: Australia, for instance, had 50 per cent restriction up until December 1965, at which time they removed all restrictions. In other words, they had gone through the phase which I am afraid the present Government is now embarking upon, and Australia has found that unsatisfactory, in that they desired the retired people in the Public Service and they removed all restrictions in December 1965.

The American situation is not comparable to ours at all, in that the American serviceman does not contribute to his pension. He, however, is enabled to draw \$2,000 without restriction and 50 per cent of his pension, of his further amount of pension. This is without any contribution on his part to his pension fund.

We are paying 6 per cent and we have had a restriction which in many cases represents 100 per cent loss of pension, if you work for the federal Government.

In my own case I lose 100 per cent of my pension. The only reason that many of us, I believe, in our organization are working for the federal Government at this time is that the situation appeared so illogical that we thought that, in this enlightened day, corrective steps were about to be taken. We have heard they were about to be taken, for many years.

Mr. BELL (*Carleton*): What about Britain?

Mr. WALKER: Britain has no restriction, to my knowledge.

Mr. BELL (*Carleton*): And the restriction does not apply, am I correct, when a person is employed by a Crown corporation in Canada?

Mr. WALKER: The Crown corporation situation is ridiculous. Some Crown corporations, right here in Canada, you can work for without any restriction.

The Central Mortgage and Housing Corporation is one. If I were to work for C.M.H.C. I would draw full pension and full salary.

Other Crown corporations have restrictions.

This is something which, again, has been a very awkward situation.

Mr. BELL (*Carleton*): How is the distinction drawn? Is it between proprietary corporations and agency corporations?

Mr. WALKER: I think Dr. Davidson would have to explain that to you. I have heard it. I do not understand it. It is a definition of what is the "Public Service".

Some Crown corporations are classified, apparently, on periodic review, as being in this position, and others are not.

In the National Film Board, you lose your pension: under the C.M.H.C. you get your pension. I myself fail to see the distinction.

Mr. BELL (*Carleton*): I would want to pursue that later with Dr. Davidson.

When I have argued this case with governmental officials, it has been alleged against your point of view, Mr. Walker, that the amount of subsidization of an officer's pension is so large and so beyond the 6 per cent that the present rule should be maintained. I think the figure has been mentioned to me that it is something of the order of 18 or 20 per cent, the extent of subsidization. I am sure that this will be raised by other witnesses and I would like you to try to deal with this as a matter of principle now.

Mr. WALKER: Dr. Davidson is the only source I have had for this argument. We are not in a position, as the Government does not see fit to provide us with a detailed accounting on this fund. We accept Dr. Davidson's word for it and we assume it must be correct.

I do not understand that this enters into your employment in the Civil Service of Canada, in the Public Service, in any way. This is a pension fund to which we contribute and we are assured that if we contribute our 6 per cent the Government is going to put whatever their share of it comes to into the pot at the same time.

Our way of thinking is "I have paid into this fund for 25 years; I assume the Government has put in its part; therefore, there is no cost to the taxpayer of Canada." All we are asking is that the pension we have earned be paid to us, regardless of where we work, and we see no difference between working for the Ontario Government at Toronto—where practically every retired officer is going—or the federal Government in Ottawa. We feel too fine this distinction that the Government insists on applying in this case.

We cannot speak with authority on percentages. However, we do speak with some feeling on principle in this matter.

Mr. Tardif raised a point. Dr. Davidson, I believe, feels that in opposing this matter for many years, as soon as we got interested in helping ourselves in this thing, the name of Dr. Davidson became very prominent in any discussions as to the opposition in the matter.

Dr. Davidson, I firmly believe, feels that he is protecting the Civil Service of Canada from some evil in this matter. Since I have been in the Civil Service, and seen how promotion boards and how recruiting is operating, I do not see the point at all. If a department has an opening, the department or the

personnel branch will decide whether there is somebody capable, within the department, of filling that vacancy; and if there is, there will be a departmental competition and the vacancy will be filled from within the department. If, however, they are short of that type of person or they feel they have not anybody sufficiently qualified to fill it, they will have a Civil Service competition. The Civil Service Commission, in their wisdom, might feel that some other department has personnel that could fill that vacancy; and there will be a competition amongst civil servants.

If, however, they feel there is nobody capable, or if they are particularly short of that category, they will have an open competition, and open competition is the only place that a serviceman has a chance to compete. But he is competing with the man in the street, not with civil servants, because in their wisdom the Civil Service Commission have seen fit to hold open competition because they cannot fill it otherwise.

Now, you raise the point of civil service preference, and this is a very good point, and in saying this I am expressing a personal opinion—I cannot speak for our association on this matter because it is no concern of ours. But my experience on boards is that the first thing a civil service board does is to try to disqualify as many service people as possible because of having it forced down their throats. They may be good people, and they may not be, but the very fact that the man is breathing, if he is alive, he can qualify in certain categories. If he qualifies he gets the job. I am now expressing my own views on the matter, but if you want a department head as a production manager, you do not want to be forced to take an inferior person simply because he has service experience, and therefore you read the fine print in his application and you do everything you can to protect yourself against being forced to take somebody who cannot do the job as well as somebody else.

Mr. TARDIF: That has to be corrected in some way because the members of the civil service claim regularly and repeatedly that they are impartial. The statement you made would lead people to believe that they are not impartial. It is a known fact that there have been repeated representations to elected representatives many times that the members of the armed services have a preference. I have no objection to that. I have no objection to a reasonable adjustment being made in the presentation you are making. You stated a while ago that because you work for the civil service you lose 100 per cent of your pension.

Mr. WALKER: That's right.

Mr. TARDIF: If you don't work for the civil service and if you do work for private industry and if you drew the same salary as a civil servant, and if you drew your pension as well, would not that put you into another income tax bracket?

Mr. WALKER: But this income tax bracket is something the Government is going to give us; in other words they are going to give with one hand and take away with the other. They are going to take a large percentage, say one-third or something like that, away with the other hand. The amount of money involved is much less than some people would have us believe.

Mr. TARDIF: The problem is not as great as it appears on the surface.

Mr. WALKER: Quite the contrary.

Mr. KNOWLES: Nobody would ever take your full pay back by way of income tax.

Mr. TARDIF: I would not agree with that, but most of the labour organizations claim that one of the main qualifications for promotion is the years of service, and you seem to think that the ability to make progress is more important than the years of service. In most cases I would say that years of service plus years of progress would be the deciding factor, but in the army is it not service that counts mainly?

Mr. WALKER: I believe this used to be correct; I believe that merit is now receiving a much greater emphasis than it did previously. It used to be that if you could stay alive and not hit anybody you would come up eventually for promotion on straight years of service. I do not say that is the case today, and I do think that nowadays merit is receiving much greater attention.

Mr. TARDIF: One thing you said was that in most cases the heads of departments are not anxious to get members of the armed forces, and they show preference to people within the department. I think if you read the evidence back you will find that is what you said. I don't think this exists in civil service departments; I don't think anybody has any objection to taking members of the armed forces.

Mr. KNOWLES: Is this subject before the committee?

Mr. TARDIF: That is part of the evidence the witness gave.

The Co-CHAIRMAN (*Mr. Richard*): I hope the answer will be brief because we have covered a subject that would take up a whole day at least and would require quite some time to deal with fully.

Mr. TARDIF: Well then, Mr. Chairman, would it be in order the next time I have questions if I were to submit them to some members of the committee to see if I should ask them?

The Co-CHAIRMAN (*Mr. Richard*): No, but the subject of veterans' preference is not part of the bill.

Mr. TARDIF: It is part of the evidence the witness gave, and as such it becomes part of the record.

The Co-CHAIRMAN (*Mr. Richard*): That is why I allowed you to ask questions on this. I would hope we could close that part of the evidence now.

Mr. WALKER: If I may have 10 seconds—there is an implication here that is quite serious. I had no intention of saying that the civil service has any feeling about hiring service people. By that I mean that they are the same whether an individual is in the civil service or in the services or anywhere else. If you are hiring people to do a job, you want to be sure that you can hire the best people available for the money you have to pay. All I wanted to say about service preference, and this is a personal opinion and I prefaced this in that way earlier, that it was not an association opinion—but I just wanted to say that the service preference has outlived its usefulness. At this point of time it is no longer the factor it was, and you do not want to take a chance on being forced to take a person who is not as well qualified as others.

Mr. TARDIF: Would you say the armed forces are not better trained today than they used to be 15 or 20 years ago?

Mr. WALKER: Without doubt, sir.

Mr. CHATTERTON: Can you say, Mr. Walker, whether the civil service have taken a stand on this regulation?

Mr. WALKER: No.

Mr. CHATTERTON: Have you sought their support?

Mr. WALKER: Our approach to this whole thing is that this was a National Defence act. This is the Canadian Forces Superannuation Act, and as retired members of the forces our feeling was that our approach was to the Minister of National Defence or the Associate Minister of National Defence because it was their act. It was not a civil service act. We took this approach through National Defence because in our opinion it was a personnel question.

Mr. CHATTERTON: I would preface what I have to say now with the remark that I am not opposed to the repealing of 17 (2). I have heard on many occasions in the dockyards, for example, objections from civil servants that these navy personnel with their fat pensions were taking jobs from others.

Mr. WALKER: I have covered that in my remarks about competition in the civil service. In an open competition, if they do not hire a retired warrant officer or officer, they will hire somebody else and pay the same amount of money and to the officer they will pay the same amount of pension—in other words the Government will pay for the job and for the pension. That is what we are asking—we are asking that the man should not be restricted from taking the job if he is the better man.

Mr. CHATTERTON: Have you any reason to believe that if 17 (2) were repealed these other employers like crown corporations would follow suit?

Mr. WALKER: I cannot speak with any authority, not knowing the proposal. I would assume any proposal on this matter would take that into account.

Mr. CARON: You said a moment ago that when a member of the Armed Forces works for the Government, he loses his pension. That is to say that, over the rank of sergeant, all those who have come on pension and who return to work for the Federal Government because their services are required have their pension suspended as long as they remain in federal service?

Mr. WALKER: If I understand the question correctly, our pension is suspended while we work for the federal Government. We do not lose it to the effect that it disappears; we simply cannot draw it while we are employed by the federal Government.

Mr. CARON: Is it not the same thing for an employee who is on pension at 65 years of age, but is recalled to fulfill some other function in the Government, is not his pension, as for the services, stopped?

Mr. WALKER: There is one major difference in it. It is a major point I omitted, and that is that an armed forces officer or warrant officer is forced to retire. He cannot stay on to age 65, as is the case of the civil servant. At his prescribed age he must retire. This age is from 45 to 55, depending upon rank, and in the majority of the cases of our members the average age is probably at

47-48 years of age. At this point in time most people have families to educate, children to go to school, probably university, and he cannot live on his pension. He has to work for somebody. The Government has paid at this point probably many thousands of dollars in training and experience to train this officer or warrant officer, and because of section 17(2) they are forcing him to find employment in provincial governments or industry or the United States. We feel that because the federal Government has already invested this amount of money in this individual it is in the public interest that he continue to serve in the public service, and if he is going to finish out his normal working life I see no reason why he should not work for the federal public service as well as anybody else.

Mr. CARON: But when these officers go on pension at 48 or 50, shall we say, do they not receive a substantial pension? For example, a captain will probably receive \$4,000 or \$4,500; a major, probably \$6,000; a colonel, probably from \$8,000 to \$10,000; and a brigadier, from \$12,000 to \$14,000; which is a rather considerable amount.

Mr. WALKER: As I pointed out, the two major factors affecting the size of pension are years of service and rank upon retirement. This combination could affect his pension drastically in either way. In other words, a particularly brilliant officer who has risen fairly quickly but has come into the service late in life could end up with a pension equivalent, maybe, to a captain because of his lack of years of service. On the other hand, a major or captain who has gone his 35 years would have a larger pension than a more senior officer with only 25 years' service. So it is a combination of both.

I think probably what worries us—and, again, we get back to the principle you are already treating one group of armed forces personnel, flight sergeant and below, in one way and warrant officers and officers in a completely different way, even though our contribution is exactly the same percentage now. A man who is going to qualify for a larger pension has made a much larger contribution to the pension fund, because he is paying 6 per cent of his salary for the length of service. Therefore, he is entitled to a greater return from the pension fund than the more junior person. So, as a matter of principle, if you do not treat them on retirement exactly the same, to me this is discrimination of one group against another, and we see no reason for this discrimination to exist.

Mr. CARON: But, is that not due to the fact that sergeants are in receipt of smaller pensions than senior officers, which explains why the Government has felt that if they should retain their complete pension besides their salary, such salary be smaller because they would not have the qualifications of a captain, a major, a lieutenant-colonel, a colonel or a brigadier?

Mr. WALKER: Our supposition as to why this inequality exists dates back over 20 years, at which time under the old act flight sergeants and below were not allowed to contribute to the pension fund. They made no deduction from their pay and contributed to the pension fund. So that we presume that at that time the act did not include them because they were not paying into the fund and their pension on retirement was, of necessity, quite small. However, officers and warrant officers have always paid their contribution.

When Part V came into the act all ranks were included and from A.C. to air marshal they all paid 6 per cent of their income equally. At that point in

time section 17(2) should have been deleted so that the people were treated from that point on equally. How this inequality has lasted for 20 years, we are not in a position to surmise.

Mr. CARON: So, you feel that senior officers are not fairly dealt with?

Mr. WALKER: We cannot speak for any particular rank. We have all ranks in our association, and I would not presume to single out any particular rank and say that he is fairly or unfairly dealt with. We feel that all ranks who are restricted are unfairly dealt with under the old act that takes one group of people and places no restriction upon them.

Mr. CARON: Even though you are fairly dealt with?

Mr. WALKER: We feel we are unfairly treated as a group. This is the point at which I think there is room for negotiation. We feel that when you start treading on, say, a deputy minister's heels that somebody could have a case for a ceiling, but not a restriction on all ranks above the rank of warrant officer—we feel that this is unjust.

Mr. WALKER, M.P.: Good morning, Mr. Walker! Basically, your case this morning is that you are making a case for equal treatment for all ranks, officers right down to privates, in the armed forces. Is this correct?

Mr. WALKER: Right. This is the only thing I can do at this point of time, not knowing what the proposal is.

Mr. WALKER, M.P.: You are proposing one way of cracking it. Do you say the discrimination would be removed completely rather than if granting your case the present privileges were withdrawn from the warrant officers down?

Some MEMBERS: Oh, oh!

Mr. KNOWLES: Which Mr. Walker is speaking now?

Mr. WALKER: I think you could weaken our case, but I am afraid you would generate a much bigger one.

Mr. WALKER, M.P.: I am not sure, but the point of discrimination has been brought up this morning, and there are two ways of ending it. One is to put everybody in, and the other is to put everybody out. Are you setting any age limit for the time of retirement? Are you setting any age limit at which these restrictions which you wish to have removed will no longer apply? I am talking now about an officer who is taking his pension and going to work for another Government agency. Are you setting an age limit at, say 62 or 65?

Mr. WALKER: At the present time the normal civil service regulations take over, and he would have the option of retiring at 60, and forced retirement at 65.

Mr. WALKER, M.P.: Mr. Caron has asked if you have the pension scale. I am not concerned about the amounts, but the principle of this thing. If a person has paid for and earned a pension—and I do not care what it is—the principle here is that you take your pension with you when you take another job. Mind you, this would put you in a class different from that of members of Parliament and recipients under the Canada Pension Plan when it comes into effect based on the age of 65, who may wish to do the same thing within the Government service.

Mr. WALKER: Do you mean we would as a class, by age or income—what are you referring to?

Mr. WALKER, M.P.: I am referring to those who receive a pension and take on other employment in the Government service.

Mr. WALKER: That is right. I know of no other employment in the public service that forces you to retire at 45 or 47 years of age. This is the nub, I think. If we were working and completing our 35 years of work to the age of 55 or even 60 I do not think there would be too many interested in further employment. But, this is cutting you off in your prime, and it forces you to seek other employment.

Mr. KNOWLES: Mr. Walker, the comments you have just made prompt me to say that I was forced to retire at the age of 50, and I went on full pension during the four years of that enforced retirement. When I decided to run again in the next election I had to make a choice between staying out on a higher salary and on a pension, or giving up the pension and coming back here at a lower salary. However, it was a choice I made. I did not intend to get into this kind of argument, but the two Mr. Walkers produced it.

Mr. WALKER: If your party was the only to which this applied—if all the other parties did not face the same conditions in respect to retirement—would you not feel that you had a justified complaint? Would you not feel that you had been discriminated against if it applied only to the N.D.P.?

Mr. KNOWLES: If it applied to only the New Democrats and not the Liberals?

Mr. WALKER: Yes. This applies only to warrant officers and above.

Mr. KNOWLES: May I ask the question the other way around? Are there any other groups who can work in the federal Civil Service and draw such pensions as they have earned other than the lower ranks about which we are talking?

Mr. WALKER: We can work in some Crown corporations as presently constituted. We can work for Central Mortgage and Housing, and draw our whole pension. The names of some of the other Crown corporations escape me at the moment, but there are several several others that we can work for and still draw full pension.

Mr. KNOWLES: Mr. Bell has prompted me to ask you about the R.C.M.P.?

Mr. WALKER: We are not too conversant with the R.C.M.P. regulations, but I believe that the R.C.M.P. regulations are very similar to the armed forces regulations.

Mr. KNOWLES: Mr. Chairman, when I put up my hand to catch your eye I did not intend to question Mr. Walker. However, I wonder if our procedure is such that we can now hear from Dr. Davidson on this point, with the possibility of having Mr. Walker back again? I do not want to set up a running debate between Dr. Davidson and Mr. Walker, but—

Dr. George F. Davidson, Secretary, Treasury Board: I demand equal time.

The Co-CHAIRMAN (Mr. Richard): Mr. Tardif has a question.

(Translation)

Mr. TARDIF: What I would like to know, Mr. Chairman, is whether the Federal Government contributes the same amount to the Armed Forces' Pension Fund than members of the Armed Forces themselves? For example, members of the Armed Forces contribute 6 per cent of their pay to their pension fund. Does the Federal Government contribute the same amount, more or less?

The JOINT-CHAIRMAN (*Senator Bourget*): Than for the civil servants?

Mr. TARDIF: No. For example, for the people who are members of the Armed Forces contribute. What is the Federal Government's contribution in respect of the same pensions for the same people?

(English)

Mr. WALKER: I have no knowledge in this area.

(Translation)

Mr. TARDIF: Mr. Chairman, Mr. Davidson might possibly answer that.

The CO-CHAIRMAN (*Mr. Richard*): Yes, I am waiting until other members are through with Mr. Walker.

(English)

Mr. KNOWLES: I would like to commend Mr. Walker for having stated his case very clearly. As we always do, we have tried to confuse him but he has stated the principle clearly. Perhaps we might have Dr. Davidson now say something on that principle.

The CO-CHAIRMAN (*Mr. Richard*): Has any other member a question to put to the witness?

Mr. WALKER, M.P.: Mr. Walker, would you prefer to have what you are seeking in the legislation rather than having it accomplished by regulation? Is this your—

Mr. WALKER: Our approach to this basically is that the section of the act should be deleted, period. This is our aim. Now, if the Government in its wisdom insists in regulation then I would think, from my experience over past years, that to have it in the form of a regulation is preferable in that any further negotiations on the matter would not die at this point, and it would be easier to amend if it were a regulation rather than a statute.

Mr. WALKER, M.P.: But you would feel happier if you knew now what the regulation was?

Mr. WALKER: Yes, I would.

Mr. BELL (*Carleton*): Perhaps the Minister of National Revenue could tell us.

Mr. CHATTERTON: Mr. Walker, do you have any idea of the number of ex-forces personnel who are now working for the Government?

Mr. WALKER: We are not able to obtain any accurate information on this point. We have been operating largely locally. We have had contact with both the east and west coasts where there are other fairly large groups, but Ottawa represents the largest group, which is estimated at 600 or 700 people. This is a

small number, and this adds to the aggravation. I think this raise of approximately \$3,000 that the pilots received has probably drastically reduced the number affected.

The CO-CHAIRMAN: (Mr. Richard): We shall now call on Dr. Davidson.

Mr. CHATTERTON: Dr. Davidson, is the Armed Forces Pension plan established on an actuarial funded basis?

Dr. DAVIDSON: It is based on actuarial principles, on the same basis as the other funds.

Mr. CHATTERTON: I ask that question for a reason. What is the effect of this integration of the Canada Pension Plan with the Canadian Forces Superannuation Plan? What is the effect of that on the fund?

Dr. DAVIDSON: If my understanding is correct, Mr. Chatterton, it really has no effect. There is a complete offset.

Mr. CHATTERTON: My next question is: Can you tell us what the effect of the complete repeal of section 17(2), would be on this fund, assuming there will be considerably more of these pensioners employed by the federal government?

Dr. DAVIDSON: If one were to base one's estimates on the numbers who are now in the Public Service and affected, the amounts would not be very great. Of course, it is quite impossible to estimate what the effect would be of complete removal of section 17(2) on the tendency of retiring members of the Armed Forces to enter the Public Service.

Mr. CHATTERTON: You do not anticipate that it will completely upset the balance or the position of the fund?

Dr. DAVIDSON: I couldn't answer that question. It would depend entirely, I say, on the numbers who would as a result of the removal of the present restrictions decide to enter the Civil Service.

It might be helpful if I put some of the figures on the record as to the numbers in the Public Service. I have here a statement which was given us in March of this year from the Department of National Defence, which sets out the following: that the number of officers entitled to pensions from the services who are presently serving in the Public Service is 587. The number of chief petty officers and warrant officers is 306, as given by these figures, making a total of 893. Of these, 309 officers and 161 chief petty officers and warrant officers, or a total of 470, are suffering some abatement of their pension entitlement because of their service in the Public Service.

In the case of 70 officers and 14 chief petty officers and warrant officers, or a total of 84, the result is a complete suspension of their pension as of the date of reporting, leaving a total of 208 officers and 131 chief petty officers and warrant officers, or a total of 339 whose pensions are unaffected by the present provision in the legislation.

This gives the members of the committee some idea as to the actual dimensions of the present problem in so far as those in the Public Service at the present time are concerned. It does not throw any light upon the extent to which the present provisions have in fact resulted in men of these ranks deciding to go elsewhere rather than to enter the Public Service upon retirement.

Mr. CHATTERTON: You say in the case of 84 there was complete suspension?

Dr. DAVIDSON: Yes.

Mr. CHATTERTON: But in the remainder none was affected at all. Were there not some only partially affected?

Dr. DAVIDSON: I gave you the figure first of 309 officers and 161 chief petty officers and warrant officers, or a total of 470 who suffered a partial abatement.

Mr. CHATTERTON: I am sorry.

Mr. TARDIF: Mr. Chairman, could we now have an answer to my question, that is what is the Federal Government's contribution to the Armed Services' Pension Fund as compared to that of the member of the forces himself?

Dr. DAVIDSON: The question can be broken down into three parts, Mr. Chatterton. My understanding is that so far as the members of the Armed Forces, other than those of officer rank, are concerned, the contribution that the Government makes is of the order of \$1.4 to every one dollar for those below the rank of officer.

May I start over again? Mr. Clark tells me that the contribution is of the order of 10 per cent for the employer against 6 per cent for the employee.

Mr. CHATTERTON: For what ranks?

Mr. TARDIF: Is that for the people that are below?

Dr. DAVIDSON: The rate of contribution is of the order of 6 per cent for all personnel of the Armed Forces and the order of 10 per cent for the employer.

Mr. BELL (*Carleton*): Is that across the board?

Dr. DAVIDSON: I am trying to get the information on the record. First of all, that is the technical position. If I understand Mr. Clark correctly, the contribution by all personnel is of the order of 6 per cent. The contribution of the employer is 10 per cent. However, this does not take into account the additional contributions that the employer has to make from time to time with salary revisions to make up the actuarial deficits of the fund whenever salary adjustments are made.

Having said that, may I come to the second part of the point? This has to do with the ages of retirement, because the ages of retirement of the men of officer status are on the whole, if I understand correctly, lower than for the other ranks. The effect of this is that in terms of the drawings on the fund it costs the employer \$4 for every \$1 of contribution by the officer personnel to finance the cost of pensions to those of officer rank.

Mr. TARDIF: Which works out to what percentage?

Dr. DAVIDSON: Well, \$4 to \$1. May I just complete the statement by contrasting that with the ratio that applies to the non-officer personnel and the ratio that applies, as I understand it, also in the Public Service Superannuation Act of \$1.4 to one. These last figures I have given you illustrate the extra cost on the pension fund of the early ages of retirement.

Mr. KNOWLES: Does the 1.4 figure apply both to the Armed Forces of lower rank and the Civil Service?

Dr. DAVIDSON: That is my understanding. I think I should make a correction on that 1.4 to one figure, Mr. Knowles—and I am not in a position at this moment to give you the correct figure. Could I submit it to the committee at a later date to be sure it is reported correctly in the evidence? It is substantially a lower ratio than it is for the officer group.

Mr. KNOWLES: Do you know at the moment whether the figure for the Armed Forces lower ranks is the same for the Public Service Superannuation Act?

Mr. Hart Clark (Director, Pension and Social Insurance Division, Department of Finance): In the case of the officers, the cost of the benefits apart from the just the normal benefits, on a normal progression of an officer up the ranks is in the order of 25 per cent of his pay and on which he pays 6 per cent. In the case of the men below the officer rank, as I understand it, it is roughly in the order of 15 per cent. In other words, the 6 per cent that the man pays, and the 9 or 10 per cent that the Government pays—in fact, there is a little bit of overpayment in respect to the men if you tried to segregate them into the different categories. But this is the order of the cost. In the case of the Civil Service, it is a straight matching approach for current service. The big difference comes when you have to make up the additional deficit arising from salary revisions, and it is when the salary revision takes place that the 1.4 factor in relation to the Civil Service comes into play. In other words, take one of your B category, or whatever it may be, that has a revision in its pay structure. For every dollar in the increased annual salary level, the additional liability to the Government is 1.4. In other words, if you have a \$10 million increase, you have an immediate increase in the liability of approximately \$14 million.

Now, in the case of the Armed Forces, it is a different factor, and there it is much higher for officers than for men. We have to split the calculation into two, with one factor related to officers and a much lower factor related to men. In so far as the men are concerned, it is not too far from the figure in the Civil Service; but in the case of the officer, my recollection is that it is between \$3 and \$4 for every dollar of the increase.

Mr. McCLEAVE: We have a request in principle from Mr. Walker. Could Dr. Davidson answer that request? Is he going to say yes, or is he going to say no? Can he give any indication as to the regulation that would be set up under clause 51?

Dr. DAVIDSON: I would not be in a position to answer as to what the Government is going to do on this. It would not be proper for me, in my capacity, to do this. I had anticipated that Mr. Benson would be here this morning. I do not know what has delayed him. I checked before I came in at 10 o'clock, and the office was expecting him at that time. I have asked them to let me know as soon as he arrives.

I would like to say that I got the impression, as I listened to the discussion this morning, that I invented the provision which is under discussion now. I was glad to hear Mr. Walker say that it had been in the legislation for 20 years. In fact, some part of it has been in since 1907.

I would respectfully remind members of the committee that it was the Parliament of Canada which invented this legislation. Succeeding governments

have had some reason which they thought was good for making this provision, and it is that provision of the Parliament of Canada to which we are directing our attention—not to me, who, in the last few years, have been in the uncomfortable position of Secretary of the Treasury Board.

Mr. McCLEAVE: I think we all find you not guilty.

Mr. KNOWLES: But please explain.

Dr. DAVIDSON: What is the explanation? I can only speculate. But I suspect that the explanation has something to do with two factors in the picture. One is the disproportionately high cost that we have been just discussing of making pension provisions for officers where the ages of retirement are as low as they are.

The real factor, to my mind, arises from the fact that the policy of the armed forces does compel retirement at these early ages. Traditionally, it has been considered that the purpose of a retirement pension is that the employer who is no longer in a position to employ a trusted employee—and officers of the armed forces are servants of the Crown, even as civil servants are. The view has been that, when an employer reaches the point where he feels required to retire, because of age, a trusted servant who was employed, he provides a pension more or less generous according to the circumstances; and he does not expect, having provided him with a pension, and having provided him with a pension that is laudably costly in terms of the employer's share of the pension, as this one happens to be, that he will then turn around and re-engage that employee.

Having stated this principle, I wish to go on and state immediately, before Mr. Bell gets at me, that succeeding governments and Parliaments, during the years, have really shot that principle full of holes. They have turned around and, in the case of all of those of staff sergeant and below, they have said: "We will forsake this principle, we will allow a man who is a staff sergeant or of a lower rank, to be retired on pension, and then we will be free to rehire that same man, whom we have just pensioned off, because of age, and we will pay him his full salary and also pay him in the way of pension the full amount for which we and he had contributed."

It is precisely because Parliament has started to slide down that hill, that you are in the position that you are in at the present time, when Mr. Walker is coming along and saying that to make this provision for men of staff sergeant and below, and to turn around and refuse to make this provision for those of warrant officer rank and above, is discrimination.

That is not the end of the story. Not only does this kind of rule apply to men of warrant officer rank and above, but Parliament has also applied it to members of the Public Service. Parliament has also applied it to members of Parliament. Mr. Knowles was talking about coming back and having to forsake his pension. What about defeated members of Parliament who are fortunate enough, on some future occasion, to qualify for a job with the Civil Service of Canada? They will have to give up their members of Parliament pension, when they enter the Civil Service.

The Co-CHAIRMAN (Mr. Richard): And the Senate, too. That is my case.

Dr. DAVIDSON: I will leave it to you to decide whether that comes under the heading of employment or not.

A MEMBER: Touché.

Dr. DAVIDSON: I hope that Senator Mrs. Fergusson, who used to work with me in the Department of National Health and Welfare, and who I gather had to give up her superannuation entitlement when she became a senator, will forgive me for having made such light of her present occupation.

The dilemma is, where does this thing stop—or does it stop?

I want to be the first to admit—and I think the Government is prepared to recognize—that there is a particularly bad feature to the present situation, arising from what I would call the frictional point. Let me illustrate. Incidentally, it was Mr. Walker who was good enough to make this point, and who convinced me personally of the validity of it.

Take the present situation. The present situation is that a staff sergeant who retires and enters the Civil Service is able to draw his full pension entitlement, and whatever salary he is fortunate enough to get from the Civil Service employment. The officer immediately above him, the serving man immediately above him in rank, the warrant officer, has to forfeit—subject to the provisions of the present section 17(2), a part or all of his pension, in certain circumstances.

In certain circumstances, as you see, the formula contained in section 17(2) has no effect at all, because the combined salary and pension entitlement is less in some situations than the pay as of rank, in that warrant officer or officer's retirement.

You do have this frictional area, where two men, one of whom might have been a staff sergeant just a few months or a few years before he was unwise enough to accept promotion to warrant officer. These two men are treated differently. At this frictional point I think it is clear that there is a problem that does require some kind of solution.

This is why I think I can say the Government is proposing in the bill to remove section 17(2), which is the present absolute guillotine on some of these situations; and to ask Parliament for the power, by regulation, to make adjustments, to make regulations determining the amount of adjustment, if any, which should be made in the case of ranking officers who retire and enter the Public Service.

Mr. Walker will not mind my saying that he and I have had a number of discussions on this point, in which he, speaking on behalf of his people, has reiterated time and time again that what he wants and they want is the complete abolition of section 17(2). Having made that point abundantly clear so that even I could understand it, he then went on to indicate that there were some alternatives which, if the Government or Parliament was not prepared to go the whole way, he would like to have examined. It is some of those alternatives that we have been examining and it is with an alternative in mind that the Government has proposed, in the legislation, clause 51, to ask Parliament to give it the authority to regulate in such a way as to eliminate the worst

features of the present discrimination, which now admittedly exists and has existed, of course, down through the years, throughout the history of this entire situation.

Mr. McCLEAVE: I think the problem boils down to this, that by use of the regulations some attempt is made to keep a fund which is actuarially imbalanced in as close a balance as possible.

Dr. DAVIDSON: I would be less than honest if I did not say, Mr. McCleave, that the question of the effect of a change of this kind on the actuarial balance of the fund is one of relatively little importance. It really is not, in our judgment, an issue which is likely in dollars and cents to have any significant effect on the actuarial balance of the fund. What we are worried about here is the principle involved in going further than we have gone in accepting the principle that an employer who retires his servants on account of age, and this is the presumptive reason why officers retire as young as 45 or 55—and provide them with a fairly costly retirement pension, should then turn around and re-employ those same employees. How can I or the Government or you as members of Parliament, if you go to the extent of going all the way in the Canadian Forces Superannuation Act, argue against making exactly the same provision in the Public Service Superannuation Act, and what effect does this kind of change have on the position that has been taken by some of the other staff associations that discourages either the retention of civil servants beyond the normal retirement ages or questions the wisdom of encouraging the re-employment of retired civil servants and thereby in their judgment to some extent having an unhealthy effect on the standard of remuneration set for employed civil servants? This is really the dilemma; it is not a question of the actuarial cost involved.

Mr. McCLEAVE: Since we are dealing with points of principle, you have people who can retire at the same age with theoretically the same pension as those retiring from the armed forces. One man can go on and get \$10,000 a year for doing a job, while another gets into the Public Service and loses by it.

Dr. DAVIDSON: That is the situation which you members of Parliament have created over the years.

(Translation)

Mr. CARON: Doctor Davidson, Mr. Walker said that paragraph 2 of section 17 should be repealed?

Mr. DAVIDSON: Yes.

Mr. CARON: They will then be replaced with paragraphs 48 and 49 and 50. Paragraph 47 states:

Subsections (2) and (3) of section 17 of the said Act are repealed.

But they are not merely repealed, they are replaced. What difference is there between the new parts and the old section?

Dr. DAVIDSON: Sections 48, 49 and 50 have nothing to do with this matter. However, this is dealt with in paragraph 51, page 42 of the English text, or 42 of the French text—it is the same page.

Mr. CARON: It is not on the same place on the page, but it is on the same page.

Dr. DAVIDSON: Beginning with the second subsection of section 21 of the said Act—English text, the subsection reading as follows:

(English)

Section 21 of the said Act . . .

- (da) specifying, notwithstanding anything in this Act, the extent to which and the circumstances under which any annuity or pension payable under this Act or the former Act to a retired officer, warrant officer or chief petty officer first class or second class who holds any office or position or performs any services, the remuneration for which is payable out of the Consolidated Revenue Fund or by an agent of Her Majesty in right of Canada, shall be reduced or suspended;

Now what that does, having eliminated section 17(2), is to provide that the Governor in Council may by regulations determine the extent to which, if any, the benefits of the retired officers of the ranks we are discussing shall be reduced—the extent to which, if any, they shall be reduced by virtue of the fact that on retirement they accept employment in a new branch of the Public Service of Canada, the remuneration for which comes out of the Consolidated Revenue Fund, or with a corporation acting as an agent for Her Majesty in the right of Canada. What this means is that the Governor in Council on proclamation of this act will issue regulations which will determine the amount by which, and the rules which shall apply if there is to be any abatement under any circumstances whatever.

(Translation)

Mr. CARON: They will be granted to all officers from second lieutenant up?

Dr. DAVIDSON: This depends on such regulations as will be issued by the Governor-in-Council.

Mr. CARON: You are not aware at the present time? That is to say you cannot tell us?

Dr. DAVIDSON: I have no authority to tell you.

Mr. CARON: The Minister will be able to tell me?

Dr. DAVIDSON: Yes.

Mr. CARON: Thank you.

(English)

Senator O'LEARY (*Antigonish-Guysborough*): I think perhaps Dr. Davidson has already covered what I had intended to ask. Just to make sure I am correct in my thinking may I refer to the second group of statistics which he gave us. I believe that these figures for those already serving do not tell us too much because we do not have any record of the discouraging factors for those who are entering the service.

Secondly, with respect to the contributions, I understand they are the same for all ranks, 10 per cent for employer and 6 per cent for employee.

Dr. DAVIDSON: They are the same for all ranks so far as the 6 per cent is concerned.

Senator O'LEARY (*Antigonish-Guysborough*): Then we come to the beginning of discrimination under the Public Service Superannuation Act. This in my mind is where discrimination begins. Did you make a statement to that effect?

Dr. DAVIDSON: I said there are certainly elements of discrimination in the present legislation, and that is in my opinion and in the opinion of the Government. That is why it is acting as it proposes to do.

Mr. WALKER, M.P.: Did I understand you correctly when you said that in the officer class there were even now some of them re-employed retired officer class who had total abatement, and some had partial abatement and some had none at all? In effect are we not doing now—and I don't know what the formula is—but are we not doing now what section 52 tends to do?

Dr. DAVIDSON: The present formula is the formula written into the control. Section 17 (2) does not state—and this is I think something which may not be fully understood—perhaps Mr. Walker or I should have put on the record what section 17 (2) does provide. It is set out in the explanatory notes. But it does not state that a retired officer on entering Public Service employment must forego his pension. Section 17 (2) does not have that effect. It provides that when a retired officer leaves the armed forces and enters the Public Service his combined salary and pension cannot exceed in total the pay as of the rank that he had when he left the armed forces updated from time to time as the pay of that rank moves up with periodic pay increases. That is the control point. If a retired officer finds himself entering the civil service and his salary level on entering plus his pension is not greater than the pay he had as of the date he retired, he does not suffer anything. That is why you find there are three classes, some of which have partial abatement, and a relatively small number, like Mr. Walker himself—he is one of the 84 I mentioned—who suffer the complete suspension of their pension during the period of their employment.

Mr. WALKER, M.P.: Just one other point; I think I understand this, but in fact the retired service personnel now working up to the class of warrant officers are in a preferred position to all other civil servants?

Dr. DAVIDSON: In effect, that is correct, because the public service employees themselves are treated, in fact, in the same way as the officers.

Mr. WALKER, M.P.: Do you feel the early forced retirement age of the armed services has led to some of this problem?

Dr. DAVIDSON: I am convinced it is really the root cause of the situation we are now in.

Mr. WALKER, M.P.: The forced early retirement?

Dr. DAVIDSON: That is correct, and what do you do with men of 45 and 48 and 50 years of age who have served in the armed forces for the required period of time and have taken pensions which may be quite small in some situations and quite substantial in others, and you find yourselves wanting to re-engage him in a civilian capacity? Do you put a salary on top of the pension or say there has to be some adjustment?

Mr. WALKER, M.P.: Do you know the principle behind this forced early retirement? Was it a question of physical health?

Dr. DAVIDSON: I can only speculate, as you can, I presume it is the assumption that members of the armed forces have to be fighting soldiers and capable of flying an aircraft and doing a lot of other strenuous things that people like myself, who are sitting before parliamentary committees, do not have to do.

Mr. KNOWLES: Careful. You are on the firing line.

Dr. DAVIDSON: Sometimes I feel I should get some special consideration too, but up to now no one has introduced amending legislation on my behalf.

Mr. BELL (*Carleton*): I would like to raise two points with Dr. Davidson which I have raised already with Mr. Walker, and perhaps have the matter clarified.

The first deals with crown corporations. There is no provision for abatement of any kind in some, and in others there is. What is the principle? Is it proprietary corporation versus an agency? What is the principle?

Dr. DAVIDSON: The provision arises, not from anything in any other legislation, but in the Canadian Forces Superannuation Act itself. I think, basically, the distinction arises between a corporation which acts as an agency of Her Majesty in right of Canada and one that does not. In general, this means a proprietary corporation versus an agency corporation, but I am not sure the line is quite as clean-cut as that. However, you will notice on page 42 that to cover this we have referred—and this is consistent with the present position—to officers whose employment subsequent to their retirement is either paid out of the Consolidated Revenue Fund or paid by an agency of Her Majesty in right of Canada. I am told that wording has been designed by the Justice officials to maintain the present position.

Mr. BELL (*Carleton*): I wanted to be clear whether that language maintains the status quo or gives the Governor in Council now the opportunity to put abatement provisions in where they are not in existence at the present time. I raised this with the minister in the house, you may remember.

Dr. DAVIDSON: I am assured, Mr. Bell, in the case of any crown corporation which under the existing legislation is free to engage a retired officer without any adverse consequence arising in respect of his military pension, that situation has been protected.

Mr. Chairman, perhaps I might be permitted to put on the record some material which Mr. Walker's organization circulated to Parliament—a number of corporations where the pension is not affected by entering their employment. Air Canada, Canadian National Railways, Central Mortgage and Housing Corporation are examples of that. On the other hand, crown corporations such as Atomic Energy of Canada, Crown Assets Disposal Corporation, and an organization which is now defunct called the Northern Ontario Pipe Line Crown Corporation—if you obtain employment with one of those you are subject to the same kind of abatement that applies to the public service.

Mr. BELL (*Carleton*): I would now like to ask one or two questions with regard to the R.C.M.P. The language which is being inserted in section 21 by clause 51(2) is, I understand, identical language to that which is in the R.C.M.P. act.

Dr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): And the minister in the house indicated that if this had been in the Canadian Forces act the matter would have been dealt with long ago. In fact, what is the position under the R.C.M.P. Superannuation Act today?

Dr. DAVIDSON: The position, Mr. Bell, is that by regulation under the R.C.M.P. legislation the Governor in Council has legislated section 17(2) of the Canadian Forces Superannuation Act as being applicable to members of the armed forces. I think I can say this, that it follows that if section 17(2) is deleted and the Governor in Council then decides to pass certain regulations as affecting the armed forces, these same regulations will be applied *pari passu* to the R.C.M.P.

Mr. BELL (*Carleton*): At the existing stage there is no difference between the retired R.C.M.P. and that?

Dr. DAVIDSON: Yes.

Mr. BELL (*Carleton*): What is the breaking point in the ranks as far as the R.C.M.P. is concerned?

Mr. CLARK: It applies in the officer category, commissioned officers and up, the same provision as section 17(2) in the R.C.M.P. The constables, corporals and so on, have the full pension plus the civil service pay. It is only fair to say it is a much lesser problem in so far as the R.C.M.P. is concerned. I understand at most there are only three affected.

Dr. DAVIDSON: Could I just perhaps, Mr. Chairman, on my own initiative interject a problem within a problem that does arise here, and that is the problem of the officer who retires from the armed forces and then enters, as I understand he may do, the reserve forces. The present provision, if I am correct, is that on his entry into the reserve forces at the end of one year, after one year in the reserve he can resume his contributions under the Canadian Forces Superannuation Act. I think there is a problem there that we will need to look at. In the event that a decision were taken, for example, to delete section 17(2) completely and let the thing ride free, it would be necessary to make some sort of a provision that would determine whether a retired member of the armed forces could continue to receive his full pension with the armed forces while resuming employment in the reserve forces.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions of Dr. Davidson?

Mr. KNOWLES: Dr. Davidson, I am not trying to get you to reveal what is in the regulations, since I know you cannot, but is it not a fair assumption from the way section 51(2) is drawn that whatever is done will not be any more disadvantageous to the officers than section 17(2) now is?

Dr. DAVIDSON: I think that is the fairest of assumptions.

Mr. KNOWLES: Is it not also fair to assume that if a change is being made it is probably a change for the better, as far as they are concerned?

Dr. DAVIDSON: I think that is an assumption that Mr. Walker would be the first to agree with, and I think it is no secret to Mr. Walker that the formula that we have given the most serious attention to is an alternative formula that his association itself suggested to us in the first place. The only question I think that he might be unhappy about is the level at which the formula that he is talking of is being considered for inclusion.

Mr. KNOWLES: Perhaps Mr. Walker would like me to quit while he is winning.

Dr. DAVIDSON: Perhaps Mr. Walker could tell us what it was that he proposed as an alternative to the complete abolition of section 17(2).

Mr. WALKER: This is a very good point. I am glad Dr. Davidson suggested it. In our negotiations I pointed out that flight sergeants with 35 years of service were now being paid a pension of \$4,300 a year while employed in the federal Civil Service without any restriction. Therefore, I took the figure of \$4,300 as being the base figure, or the minimum figure, at which to start negotiations. We pay more into the fund than a flight sergeant does, and, therefore, we are entitled to something more than \$4,300, depending upon the ratio of our contributions. So, by putting up the figure of \$4,300 I intended it as a minimum figure.

Dr. Davidson immediately replied that this represented 35 years service, to which I could not help but agree. Therefore, he suggested, our years of service over 35 times \$4,300 plus some nominal percentage to represent our difference in contributions might be a workable formula. I recommended at that time, and in a following letter to Mr. Benson, that the percentage be 25 per cent based on the fact that this was a middle rank between that of warrant officer and the most senior officer as far as increase in pay is concerned and, therefore, increase in contributions. We felt it approached a middle of the road policy. If Dr. Davidson could assure us that that 25 per cent was there in that formula I would not take up any more of your time.

Dr. DAVIDSON: Perhaps I could ask Mr. Walker a question. If I assure him that the 25 per cent is not a feature of the formula, how much longer is this going to take?

Mr. WALKER: Then, we revert to principle.

Dr. DAVIDSON: Perhaps I could add one word. I am sure Mr. Benson would not mind my saying this. The kind of proposal Mr. Walker has indicated as having originated from his side was the kind of proposal that led us to the conclusion that there is a clear problem that presents itself as between the staff sergeant who retires and has a full pension, and the warrant officer or chief petty officer 1 and 2, who is just one grade above, and who retires and is subject to the abatement. I think it is not too much to say that starting from that point the position that we came to is that there is a case for ensuring that the warrant officer, let us say, retiring after 20 years of service is not placed in a worse position than the staff sergeant immediately below him in rank who also retires after 20 years of service.

I repeat that there is a case for ensuring that the warrant officer who retires after 35, 30 or 25, or whatever it is, years of service shall not be in any worse position than the serving man immediately below him in rank.

I will not, and I cannot, go beyond that at this point in terms of indicating to the committee the kind of formulation that we have been working on, and the potential area of difference between the position that the Government may be coming to in its regulation and the position that Mr. Walker outlined. I can assure Mr. Walker that the difference between our positions is not likely to be greater than 25 per cent.

Mr. KNOWLES: That sounds like one of those notch provisions we sometimes see in the Income Tax Act.

Dr. DAVIDSON: What is involved here is an underwriting or an assurance that some kind of a stop will be put in the abatement provisions so that an officer who would otherwise suffer a complete reduction of pension, or a reduction of pension that would put him in a worse position than if he had been a staff sergeant serving the number of years that he had served in the Armed Forces, would not have his pension reduced under any circumstances below that floor.

Mr. KNOWLES: Some of what we have discussed this morning may come up again when we get back to the question of retired civil servants. There are some civil servants who are in the position of having to work after they have retired.

Dr. DAVIDSON: In the public service?

Mr. KNOWLES: Or outside. It is not on all fours with this problem, but I suggest that there is a relationship.

Dr. DAVIDSON: This is part of the larger problem that I tried to indicate to the committee. This is not a question, in my judgment, at least, of a few retired officers. The real question here is: Does the Crown accept as a principle the desirability of extending across the board—I think that that is the eventual implication—to all of its retired employees the privilege of returning to employment in the public service following retirement, and the privilege of drawing a federal salary on top of the federal retirement pension to which it can be quite properly said they have contributed as much as anybody else, and therefore he has some entitlement to draw it after retirement as anybody else.

Mr. WALKER: With 65 as the age limit?

Dr. DAVIDSON: No, 60.

The Co-CHAIRMAN (*Mr. Richard*): Mr. Tardif?

Mr. TARDIF: Mister Chairman, according to what Dr. Davidson says, it is likely that non-commissioned officers will be considered since the new policy will apply to them. There is no difference between them and the commissioned officers.

If it will help I will ask my question in English. There is very little difference between a warrant officer and a lieutenant. If it is possible to accept the policy that a warrant officer will be considered for that, then because the difference is so slight between a warrant officer and a lieutenant what happens? If the lieutenant is excepted, is there really any difference between him and a captain, and what happens then?

Dr. DAVIDSON: The point is that the formula we are talking about applies to all officers so that if, for example, you were to provide that a warrant officer with 20 years of service would not be treated less generously on entering the civil service than a staff sergeant, you would likewise provide that a lieutenant or a captain or an air marshal could be assured under this formula that if he enters the civil service he will be treated at least as well, and not less generously, than a staff sergeant. I think they are entitled to that treatment.

The figure which Mr. Walker mentioned is approximately accurate. Perhaps I can give the committee the precise figures. The present maximum entitlement for pension purposes of staff sergeants—well, Mr. Walker mentioned a figure of \$4,300 after 35 years of service. The exact figure is \$4,218.20. The exact figure

for 30 years is \$3,615.60; for 25 years, \$3,013.00; for 20 years it is \$2,410.00. To be fair to the committee I can give also the difference between those figures and the figures for the next highest rank, which is that of warrant officer 1. For a warrant officer 1, 35 years service, the figure is \$5,182.80—slightly more than \$1,000 in excess of the staff sergeant. With 30 years of service it is \$4,442.40; with 25 years service, \$3,702; and with 20 years service, \$2,961.60. That will give the members of the committee at least a couple of bench marks in the kind of area we are talking about.

Mr. CHATTERTON: What is the present pay of a staff sergeant?

Dr. DAVIDSON: I am sorry, I cannot tell you.

Mr. WALKER: I would say approximately \$6,400, but that is not the precise figure.

Dr. DAVIDSON: For warrant officer 1, the monthly rate of pay for Group 4A—and I do not know what it is at the highest—is \$437 per month; that is the basic rate. With six years progressive pay it is \$467, so I take it I am correct in stating that \$467 is the maximum that a warrant officer, class 1, could receive after six years progressive pay.

Mr. WALKER: I have a figure of approximately \$6,400 for flight sergeant and staff sergeant; in the case of the flight sergeant, with six years in the ranks, and that takes into account subsistence allowance, marriage allowance, etc.

Mr. BELL (*Carleton*): Mr. Chairman, perhaps we have gone as far as we can until the minister satisfies our curiosity with exact figures of the formula. I suggest that at the time he does that it might be possible for us to have an analysis of the effect of the formula upon the 893 persons that Dr. Davidson has mentioned to us. Presumably there will no longer be the 84 persons who are in complete suspension. However, it will be interesting to know how many more there would be than the 339 at present whose pensions are unaffected, and the category of 470 still suffering some abatement.

Dr. DAVIDSON: Mr. Bell, there are some problems of a purely technical nature in the doing exactly of what you have said, but we will do our best.

Mr. BELL (*Carleton*): I wish to emphasize that I do not want to delay the minister's statement by reason of this.

Dr. DAVIDSON: Mr. Clark has been whispering in my ear and I am not unaware of the problems.

The Co-CHAIRMAN (*Mr. Richard*): This should conclude the presentation on behalf of the Association of Canadian Forces Annuitants. I would like to remind you that we have before us briefs which were put on the table this morning from the Civil Service Association of Canada, both in French and English. The first three pages deal with Bill C-193. I understand that the National President of the Civil Service Association of Canada, Mr. T. F. Gough, and Mr. William Doherty, the National Secretary, are here. With your permission, I would like to invite them to come forward.

Mr. CHATTERTON: What time do you propose to recess, Mr. Chairman?

The Co-CHAIRMAN (*Mr. Richard*): At 12.30. I thought that if we commenced with this presentation it would be easier to continue this afternoon.

I would like to remind committee members that if we can conclude with this presentation today, we will have the representations of the Civil Service Commission tomorrow. They have indicated that they would like to come.

Mr. BELL (*Carleton*): To make representations on the Public Service Superannuation Act?

The Co-CHAIRMAN (*Mr. Richard*): If the committee wishes to hear them.

Mr. KNOWLES: You are not referring to the Civil Service Federation?

The Co-CHAIRMAN (*Mr. Richard*): No, the Civil Service Commission.

Mr. KNOWLES: When we have finished with the Civil Service Federation of Canada, is that all we shall have to do?

The Co-CHAIRMAN (*Mr. Richard*): Yes, unless you want some representation, and the Civil Service Commission could be here perhaps this evening or some other time. They have asked to be here, unless you have any objections, Mr. Knowles.

Mr. KNOWLES: No, no.

The Co-CHAIRMAN (*Mr. Richard*): Proceed, Mr. Gough, please.

Mr. T. F. Gough (*National President, Civil Service Association of Canada*): Mr. Chairman, the comment of the Civil Service Association has the virtue and perhaps the merit of being brief. Our main concern in this particular act is clause 11.

The provision in this clause, restricting the right to secure the return of contributions, is new, as there is no such restriction in the present act. In the event that this clause is approved, every employee who reaches the age of forty-five and has not less than ten years of pensionable service, will become entitled to an immediate or deferred annuity, depending on circumstances, but no right to a return of contributions.

The possibility of such an arrangement has been foreseen due to similar provision in provincial legislation, and has resulted in a clear and strong demand from our membership that the change be resisted by all possible means. The initial protest was made by our Ottawa-Hull Council which has a membership of some 10,000, and at their initiative referred to all our councils for opinion. Their protest was very strongly endorsed and these views were conveyed to the responsible minister, the Minister of Finance.

The Public Service has regarded the Public Service Superannuation Act as embodying certain rights that should not be abrogated without consent. This is such an area in the view of our membership. It is our view that the clause is a matter of policy, and one that could hardly be justified by the facts. Comparatively few resign the service after age forty-five, but it is clear that large numbers do not wish their right to resign circumscribed by what is regarded as a penalty.

We would therefore urge that this clause be amended and the right to secure a return of contributions, up to age sixty, be retained.

This organization would take this opportunity to deplore the absence of any amendment which would protect the value of the pension dollar, or amendment that would maintain the purchasing value of the dollar for those who have

retired. With one exception, for which those who benefited were very grateful, there has been a consistent refusal to provide relief from the shrinking of the dollar, it being argued that the Government could not provide treatment for its retired employees which was not provided by private employers. This argument has seemed without substance in view of the fact that other governments, notably the United States and Britain, have seen their responsibilities in another light. Recognizing that governments are reluctant to do any other than follow industrial practice, there should surely be some exception to the rule.

If we may assume that full dollars were contributed to the fund, and the dollar on retirement was also a full dollar, it seems only right that the full value be maintained. In our view, payment of Old Age Security Pension should not be regarded as a compensatory factor, since this is the entitlement of all citizens, and paid for by taxes.

The problem has, of course, been recognized by the provisions in the Canada Pension Plan, for adjustment in pension payments in accordance with increases in prices. However, none of this will be of benefit to those who have retired from the Public Service, who have seen modest comfort change to stringency and want. We have been disheartened and disillusioned at our failure to convince successive governments on the tragic nature of this problem, on the terrifying dilemma of the aged watching their meagre resources dwindle month by month, and no possible means to augment them. We would speak once again for these victims of prosperity, so that they will not die either from want or anxiety, and so that they may live out the rest of their lives in dignity.

Mr. CARON: Mr. Gough, you were saying that as of age 45, they are no longer entitled to pay arrears?

Mr. GOUGH: They are entitled to a return of contributions up to age 60, under the act.

Mr. CARON: To come under the Act, may they pay arrears to come under the new Act, that is the Canada Pension Plan?

Mr. GOUGH: I am afraid this interpretation mechanism is not working too well, sir. I do not get the full intent of the question.

Mr. CARON: I will try to make it in English. According to the new law, are those of 45 years old entitled to pay back their pension, their increased pension?

Mr. KNOWLES: This is not section 11.

Mr. GOUGH: This is another section.

The Co-CHAIRMAN (*Mr. Richard*): We are dealing with section 11, which would provide that an employee could not receive the return of his contributions after age 45.

Mr. CARON: After he goes out of the service. So he is not entitled at the present time, before age 60, to get his pension?

Mr. GOUGH: He can get it, under certain circumstances, after age 60, on disability; but normally—

Mr. CARON: But he is not entitled to anything back?

Mr. GOUGH: He can take a deferred annuity or a return of the contribution.

Mr. CARON: And what you are on is that they have a right to get their part of the pension which they have paid for?

Mr. GOUGH: We are suggesting that if a person wishes to get his return of contributions to the superannuation fund, he should be entitled to have the full return.

Mr. CARON: Or the pension that would be allowed at that time?

Mr. WALKER: Instead of taking the amount of the pension.

Mr. CARON: If he wants to have a smaller pension he can take it now at age 45?

Mr. GOUGH: He cannot take it now, unless he is totally disabled.

Mr. CARON: And that is not what you are asking?

Mr. GOUGH: No, it is simply a question of the right to secure return of the contribution, as is now provided under the present act.

Mr. BELL: You want the status quo?

Mr. GOUGH: Yes.

Mr. CHATTERTON: In your brief there is no reference to the provision in section 9(1d) which in effect says that if a civil servant retires before age 65 then, except for these three intervening years, normally if he retires before age 65, at age 65 his P.S.S.A. pension is adjusted and integrated with the Canada Pension Plan; but if at that age he is still working, in other words if he does not get his Canada Pension Plan, then his civil service pension is reduced, although he does not get the Canada Pension Plan. You have no reference to that provision?

Mr. GOUGH: I have to admit, Mr. Chatterton, that this is one of the aspects of the bill that has escaped my attention. It has been a rush and I only became aware of this when the committee met on Friday. I have not had the opportunity of considering it. I would certainly think that there is an essential inequality somewhere in this situation but I have not been able to put my finger on it.

Mr. CHATTERTON: You anticipate that your association will in due course make representations, either to this committee or to the Government, on that particular point?

Mr. GOUGH: Yes.

Mr. KNOWLES: Was this point placed before you when your association agreed with the integration plan, if it did agree?

Mr. GOUGH: Are you referring to the Advisory Committee on Superannuation?

Mr. KNOWLES: Yes.

Mr. GOUGH: I do not recall this aspect of the matter but I have to say that I missed one critical meeting at which it might have been discussed. I was ill at the time. I do not recall this aspect of the matter being raised, or most certainly I would have been fully aware of it when the bill was brought down.

Mr. CHATTERTON: I followed all the statements made by the minister and others up to the time this bill was submitted, and never before has there been any mention made of that provision. As a matter of fact, in March of last year I had a comprehensive brief on what the effect would be. This is something that was not mentioned before.

Mr. GOUGH: I was not aware of it.

Mr. CHATTERTON: I am told now that I am wrong, that reference was made to it. I apologize.

Mr. KNOWLES: I made statements to this effect on Friday. This whole business bothered me so much that I continued to do my homework on it. There was a statement by Mr. Bryce to the Canada Pension Plan Committee. Public servants who got their pension but continued to work, and therefore would not get the Canada Pension Plan would suffer a reduction.

It was unfortunate that we did not get at it more then. Even on that statement, Mr. Bryce assured us there would not be any loss of benefit, but it seems to me that this is a loss of benefit.

Mr. GOUGH: It very definitely is. As I indicated, we intend to go into the matter, to determine what may be recommended.

Mr. KNOWLES: So far as Bill C-193 goes, your only reference to us is on clause 11.

Mr. GOUGH: That is right.

Mr. KNOWLES: About clause 11, is it clear that this denial of refund of contributions becomes effective only when this bill comes into effect?

Mr. GOUGH: Exactly.

Mr. KNOWLES: And any contributions that were in prior to January 1, 1966 are still refundable?

Mr. GOUGH: Yes, as a matter of fact we received a good deal of correspondence during the past winter, from people asking if they should resign from the Public Service before the bill went through, in order to obtain their return of contributions.

Mr. KNOWLES: Has your association looked at this in the light of a general desire to build up portable pensions?

Mr. GOUGH: Exactly. That angle has been canvassed, as thoroughly as it could. I presented all the aspects of the matter to the councils but the majority of them were still of the opinion that they should retain this right. I really do not think that it is a right of any magnitude, in so far as the number of people who might take advantage of it is concerned. It is simply that they feel that they want it, just in case.

Mr. KNOWLES: I appreciate this, but I am also aware of the second part of your brief, which relates to the problem faced by today's retiring civil servant. I wonder if we do not have to look ahead and concern ourselves about retiring civil servants in the future. Should we not now be concerned to build up the best possible pension structure, including complete portability? I wonder if

there will not be a delay, 25 or 30 years hence, where there would be retired civil servants whose pensions would not be as good as they might be if it had not been for these locked-in provisions.

Mr. GOUGH: As the president, in an instance of this sort, unfortunately I have not an opinion. I must express, to the best of my ability, the opinion of the membership. So to that extent perhaps, with respect to your question, I might plead the First Amendment.

Mr. CHATTERTON: Can anyone tell us what percentage of these civil servants, let us say in the last 10 years, who had the right to withdraw their contributions—how many of those exercised that right?

Mr. GOUGH: This would probably be in the last report on the Superannuation Act.

Mr. CLARK: About 90 per cent have taken the choice of return of contributions, in preference to deferred pension.

Mr. CHATTERTON: Looking at it then from the point of view of the individual, is it not normally preferable to leave the contributions for the deferred annuity?

Mr. CLARK: Is it not agreeable? Yes. Not only has he certain protection for his dependents, but in the event of death, or in the event of total disability his pension will become payable immediately, no matter what happens.

Mr. BELL (*Carleton*): I would like to refer to the last part of the brief, and make sure I understand what is being sought here. Are you merely asking in this, Mr. Gough, that there should be an increase in pensions for retired civil servants, or are you advocating that there be built into the superannuation act an escalation clause now?

Mr. GOUGH: It is perhaps twofold in that we are suggesting that there be built into the public Service Superannuation Act at this time an escalation clause but to carry with it an assumption, if this were done, that the Government would be obligated to provide something for those who have already retired.

Mr. BELL (*Carleton*): I appreciate that and I am in favour of both. What I am asking, however, is what is the nature of the escalation clause which you are advocating should be built into the superannuation acts while they are under consideration?

Mr. GOUGH: This is a matter that did receive some considerable study at another committee a year and a half ago before the Canada Pension Plan came into existence. At that particular time for informative purposes we did develop or at least the professional people on the committee did develop certain possibilities. I think perhaps those possibilities could become available to the committee, but being only a technician and not a professional, I would not be able to outline those at this particular time. I would not be able to give the possible ways for building into the act the suggestions which could take care of this situation, but I think I am correct in stating that this has been developed some two or three years ago.

Mr. BELL (*Carleton*): Did you contemplate that the result of any escalation clause might be an increase in contributions?

Mr. GOUGH: This possibility was canvassed at the committee, very naturally, because they had to deal with the possibilities of what could be done under present contributions and what might be done under increased contributions. So the plans to which I have referred did effectively cover both possibilities. Individually I think that public servants generally are willing to pay for what they get. Certainly if you may exclude the first part of my memoranda here this morning, a large portion of the service is very much concerned with the pensions at age 65 and whether or not that pension is going to remain substantially unchanged in its value whether they live 10, 20 or 30 years.

Mr. BELL (*Carleton*): There is one policy, so far as the Civil Service Association is concerned, which has been formulated in relation to escalation.

Mr. GOUGH: The policy is now some four years old, and at that particular time there was a resolution at our national convention which did suggest the increase in the pension could be paid for by increases in costs. At that time we had no idea what these costs might be, but I would be reluctant to say at this point of time that that might be the policy of the organization some four years later. I don't know.

Mr. CHATTERTON: To pursue the questions raised by Mr. Bell, are you suggesting that in future the pensions of civil servants be escalated in accordance with some formula related either to the cost of living or to the average standard of wages? We were told before the Canada Pension Plan committee that it was very difficult, if not impossible, for a plan which is funded on an actuarial basis to provide for such future escalations because you never know what the increase in the cost of living is going to be. My question is this: Do you think your organization or civil servants generally would be in favour of abandoning the principle that the fund for the Public Service Superannuation Act should be on an actuarial basis, keeping in mind of course that the Canada Pension Plan is not on an actuarially funded basis? In other words if you want to retain the actuarially funded basis of the Public Service Superannuation Fund, such escalation would have to be provided for out of some revenue other than the fund. What is the opinion of your organization with regard to this alternative?

Mr. GOUGH: There is no policy in this regard. I would say, as I indicated to Mr. Bell a moment ago, that provided the costs were not too great, the majority of public servants would prefer to pay. With respect to the question of whether they would be willing to consider another plan rather than one which is on an actuarial basis, I am inclined to think that the majority, and of course you will appreciate that this is a question which has not come up, except through the voice of the present superannuates who are apt to take a pretty jaundiced view of the words "actuarial soundness of the plan"—but I would think the majority of the public servants would prefer an actuarial plan even though it meant an increase in contributions.

Mr. CHATTERTON: What would be the reaction if there was a provision whereby, for example, the pension readjustment act which was passed in 1959 should be brought before Parliament for review every four years or so?

Mr. GOUGH: I am quite sure that would satisfy the majority. Of course that payment was made out of consolidated revenue by a special vote. It might perhaps become a matter of collective bargaining at some future date.

Mr. KNOWLES: So are the supplementary amounts that have to be put into the fund from time to time to take care of salary increases.

Mr. GOUGH: That is an additional cost to the employer and is one which was envisaged when the act was set up in 1924 but not, probably, in the magnitude that it has reached today.

Mr. KNOWLES: It is clear from your brief that you support very strongly the position of retired public servants and I take it that if we got that subject referred to this committee by the house you would be prepared to come back?

Mr. GOUGH: I would be happy to come back. You will understand that as an officer of the association I get as many calls as you do, or indeed as many as Mr. Bell does. This is a very serious problem, and I do not think I misused the words when I said it was tragic in a number of instances because I believe that to be the case. I would be happy to come back.

Mr. McCLEAVE: I want to raise one point. You spoke to us about resolving the problems in relation to cost of living, and agreements under collective bargaining, but you cannot bargain for retired civil servants, can you?

Mr. GOUGH: No, but this has its ramifications in other areas and we hope the Government would give some consideration to some formula.

Mr. CHATTERTON: Has your association taken a position with regard to the question we discussed previously with respect to section 17(2) of the present Canadian Forces Superannuation Act?

Mr. GOUGH: No.

Mr. CHATTERTON: Have you stayed away from that point?

Mr. GOUGH: Yes we have. The constitution provides us with enough trouble within our own bailiwick without going outside.

Mr. KEAYS: When an employee has been working for the Government for seven or eight years, does he sign an employment form setting out the conditions of employment, et cetera?

Mr. GOUGH: Not that I am aware of, of that nature. No, I have never heard of it—unless, of course, it might be a crown corporation or something of that nature, but most certainly not in the Government service under the present Civil Service Act.

Mr. KEAYS: It is understood, however, he has been making contributions towards the pension plan?

Mr. GOUGH: Yes.

Mr. KEAYS: And it is also understood that he has the right to the return of his contributions?

Mr. GOUGH: Yes, that is right, as it is at the moment.

Mr. KEAYS: Do you know what formula we are basing ourselves on to tell him he has no right to the return of his contributions?

Mr. GOUGH: I am assuming—and I think this is a fair assumption—this is in the act, because there was an agreement between the federal authority and some of the provincial authorities that this should go into provincial plans and,

very naturally, if there were amendments the Government would perhaps give some undertaking they would consider them for the federal plan; but it is in the Ontario and Quebec plan, I believe, where there is no refund of contributions after age 45 if the individual has 10 years of service.

Mr. KEAYS: Do you believe in the aspect of portability of the plan?

Mr. GOUGH: Yes, I think that is right.

The Co-CHAIRMAN (*Mr. Richard*): We have concluded now, I assume, our examination of the brief of the Civil Service Association of Canada. There is no purpose in meeting this afternoon because we have no organization to appear before us.

Mr. BELL (*Carleton*): Unless the minister were available.

The Co-CHAIRMAN (*Mr. Richard*): Well, will you leave it with me? Probably this evening would be more convenient.

Mr. BELL (*Carleton*): Are you contemplating meeting this evening?

The Co-CHAIRMAN (*Mr. Richard*): If we have the minister. Otherwise there are no witnesses.

The committee adjourned to Tuesday, June 21, 1966, at 9.30 a.m.

OFFICIAL REPORT OF MINUTES OF PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

Respecting

BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

TUESDAY, JUNE 21, 1966

WITNESSES:

Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance, Department of Finance; Mr. E. E. Clarke, Chief Actuary, Insurance Department; Mr. J. J. Carson, Chairman, Civil Service Commission; Mr. L. Walker, President, Association of Canadian Forces Annuitants.

ROGER DUHAMEL, F.R.S.C.

QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard, M.P.

and

<i>Representing the Senate</i>		<i>Representing the House of Commons</i>	
Senators		Mr. Ballard,	Mr. Lachance,
Mr. Beaubien (<i>Bedford</i>),	Mr. Bell (<i>Carleton</i>),	Mr. Leboe,	
Mr. Cameron,	Mr. Caron,	Mr. Lewis,	
Mr. Choquette,	Mr. Chatterton,	Mr. McCleave,	
Mr. Croll,	Mr. Crossman,	Mr. Munro,	
Mr. Davey,	Mr. Émard,	Mr. Orange,	
Mr. Deschatelets,	Mr. Fairweather,	Mr. Ricard,	
Mrs. Fergusson,	Mr. Faulkner,	Mr. Rinfret,	
Mr. Hastings,	Mr. Hymmen,	Mr. Tardif,	
Mr. O'Leary (<i>Antigonish-</i>	Mr. Isabelle,	Mrs. Wadds,	
<i>Guyssborough</i>),	Mr. Keays,	Mr. Walker—(24).	
Mrs. Quart,	Mr. Knowles,		
Mr. Roebuck—(12).	(Quorum 10)		

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, June 21, 1966.

(5)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.35 a.m., the Joint Chairmen, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The Honourable Senators Bourget, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart (5).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Caron, Chatterton, Keays, Knowles, Leboe, McCleave, Ricard, Richard, Tardif, Walker (12).

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance; Mr. E. E. Clarke, Chief Actuary, Insurance Department; Mr. J. J. Carson, Chairman of the Civil Service Commission; Mr. G. A. Blackburn, Director General, Staffing Branch, Civil Service Commission; and Mr. Lloyd Walker, President, The Association of Canadian Forces Annuitants.

The Committee questioned Hon. Benson and the representatives of the Treasury Board and the Departments of Finance and Insurance on points raised at a previous meeting dealing with the submission of the Association of Canadian Forces Annuitants and with the subject-matter of Bill C-193.

Following the testimony of the aforementioned witnesses, the Committee received a brief from the Civil Service Commission dealing with the point of "disability" and questioned the Chairman of the Commission thereon.

The President of the Association of Canadian Forces Annuitants was given the opportunity to voice his views on the statement made earlier by the Minister.

The Committee received from the Treasury Board representative a copy of "Proposed Integration Formula under the PSSA" (*See Appendix F*), and "Examples of Application of Integration Formula—Canadian Forces Superannuation Act and Royal Canadian Mounted Police Superannuation Act" (*See Appendix G*).

At 11.25 a.m., the meeting was adjourned to 3.30 p.m. this same day.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

OTTAWA, Tuesday, June 21, 1966.

The Co-CHAIRMAN (*Mr. Richard*): Honourable members of the Senate and of the House of Commons, as agreed yesterday, we have with us this morning the Minister of National Revenue, the Honourable E. J. Benson. Are there questions?

Mr. BELL (*Carleton*): Yes. Mr. Minister, you probably heard of the representations which were made to this committee yesterday on behalf of retired personnel of the armed forces who sought to enter the Public Service. I wonder if we could have your comment in respect of those representations and if you would be able to tell the committee what your proposal is in relation to this matter.

Honourable E. J. Benson, Minister of National Revenue: Inevitably, one has to answer, I guess. I have heard of the representations yesterday. I have not had a chance to read the transcript, of course, because it is not produced yet.

The proposal under the regulations will set out the minimum we would propose to do. The minimum we would propose to do is to put officers in the same position as are other ranks up to the staff sergeant level who entered the armed services. That is the minimum we will do and I cannot go beyond this, because anything beyond this would have to be decided by the Government. The minimum we would propose is the \$4,200 base—the \$4,218 base that officers can have that would not affect their salary in the Civil Service in any way. That is the pension for 35 years service, which a staff sergeant can get and enter the Civil Service without affecting his salary in any way. This is the minimum we will provide in the regulations. I cannot go beyond this.

I have read the representations that the retired officers' association would like 25 per cent beyond this. This would bring them roughly to the Warrant Officer I level. I have not had a chance even to discuss this with my colleagues and I would not like to go beyond the point of saying that we will make sure in the regulation that officers who enlist in the armed forces will be able to get a pension, in addition to their salary, of up to the staff sergeant level of \$4,200 under those circumstances.

If you move into the officer category there are problems here in relation to it. As you know, the contribution of the Government to officers' pensions is much higher than that to other ranks: it is about \$4 to \$1, as compared with about \$2 to \$1. It becomes more costly if you move beyond that.

Mr. BELL (*Carleton*): This may not be the occasion to argue the matter, Mr. Chairman, but I might ask the minister why, having conceded the principle, he does not carry the principle out in full and simply repeal section 17(2) and do it cleanly and in a straightforward manner.

Hon. Mr. BENSON: Probably for the same reason that you did not do it in 1959. It is a very costly thing to do, for the Government.

There is a principle involved here, of having an employee of the Government retired and then in addition receive his salary from the Government. Perhaps the principle should never have been started. However, I think it is fair and reasonable to go to the staff sergeant level and I have indicated my intentions to recommend this to my colleagues.

If you go beyond this, you get to the stage where, supposing somebody is getting a \$10,000 pension from the Government as a retired officer in the army—and then accepts, say, a Civil Service job of \$20,000, then the Government is paying the \$20,000 salary and is also contributing four to one towards that \$10,000 pension.

Mr. BELL (*Carleton*): You keep emphasizing this four to one basis. Is it your position that the Government of Canada is treating officers too generously?

Hon. Mr. BENSON: I would not like to say that.

Mr. BELL (*Carleton*): Then what significance does the four to one base have? This is the pension he earns and if the Government of Canada pays up four to one, so what? Even take that four to one pension, that officer can go out to private industry, he can go to the provincial government or to a municipal government, and you do not complain.

Hon. Mr. BENSON: That is right.

Mr. BELL (*Carleton*): Where is the distinction? The principle has already been breached fully, of not having two incomes from the same employer. It is breached in full, even under the legislation of section 17(2).

Hon. Mr. BENSON: It is not breached completely, it is breached only to a level.

Mr. BELL (*Carleton*): But once you breach the principle, what ground do you have to stand on?

Hon. Mr. BENSON: Don't blame me for breaching the principle, this was done by a previous government. I am not saying the principle is wrong. All I am saying is we are putting the officers up to the level of an O.R. who retires at the same maximum level, that is \$4,200 after 35 years service.

Mr. CARON: On section 6 I was told the other day that it is up to the minister to decide what is the maximum or minimum which could be paid for those who received a pension by mistake. I was asking about the recovery of the pension paid by mistake and I was told that it is up to the minister to decide if it is going to be 2, 4 or 6 per cent. Would it not be better if there was a maximum set? It may not always be the same minister, and after you we may have a harder one to come. And they may go up to 10 per cent.

Hon. Mr. BENSON: The Minister of Finance has always been tougher than the Minister of National Revenue, but this is done to allow flexibility in the amount of recovery so that the Minister of Finance can look at the particular circumstances in any individual case and recover the appropriate amount.

Mr. CARON: But you can go to 10 per cent, and there is nothing to stop them going higher than that. If there was a maximum it could be prescribed that it should be within certain limits. Some could pay 2 per cent, some could pay 4 per cent, but could you not say that it should not go higher than 6 per cent?

Hon. Mr. BENSON: This would cause difficulty with somebody who had, for example, an overpayment of \$2.36. You might want to recover the total at once and it would not be very practical to spread it over a period. Now if it was several hundred dollars you might want to spread it over a year or two years in accordance with the ability of the individual to pay. Of course this is done under the Financial Administration Act.

Mr. CARON: What would be the general recovery you have to get from one of the civil servants? What is the average recovery you have to get?

Hon. Mr. BENSON: I don't think I can indicate this because I don't know. It varies, some being small amounts and some being more substantial amounts. I don't think we have ever had people complain that the Minister of Finance, under Financial Administration Act, was being too harsh in the recovery of payments.

Mr. CARON: But there is always a danger.

Hon. Mr. BENSON: Yes, but I think it is serving a better purpose by allowing the Minister of Finance to consider the individual circumstances and if there was a small amount, as I mentioned a while ago \$2.36, he could do it by recovering 100 per cent at one time.

The Co-CHAIRMAN (Mr. Richard): In order to have a more orderly discussion and since we have started on the armed forces, Mr. Chatterton had a question to ask and then Mr. McCleave.

Mr. McCleave: I wanted to ask a question about clause 9.

Mr. CHATTERTON: When the minister said he would use the pension of a staff sergeant as the base, does he mean that the pension of officers would be adjusted according to length of service?

Hon. Mr. BENSON: Yes, so that he may have the same position with respect to income from pension and that it would not affect his salary in the Civil Service, as a staff sergeant. After 25 years service this would be \$3,013, and after 20 years service this would be \$2,410.

Mr. CHATTERTON: I am in favour of the complete removal of 17 (2), but if, as the minister indicates, he is going to adopt some kind of formula to make it less inequitable and since you are going to adjust them by years of service, surely to make it equitable there should be a percentage adjustment on the pensions that officers are getting. Whatever percentage they might get would be arguable, but surely there should be some adjustment over the years of service plus the percentage of pension he would get under this.

Hon. Mr. BENSON: This is the argument put forward yesterday by the retired officers' association. Of course I will look at this, and I also have to look at the cost implications, although Mr. Bell tells me there are none. When you hire somebody back you have an employee of yours and if you allow him his full pension and salary I think it requires some consideration by the Government. What you are indicating is the 25 per cent or something like that.

Mr. CHATTERTON: I think it requires recognition of the principle that the man with the higher pension is entitled to a little more. Once you accept that principle, if you start with 5 per cent, successive ministers, who are not as tough, might be more generous.

Hon. Mr. BENSON: I have gone a long way towards meeting the demands of the retired officers' association, because when I took over office I felt they were being treated unfairly. And I said this morning they would then be in the same position as the highest O.R.

Mr. CHATTERTON: This is to apply to the R.C.M.P. too?

Hon. Mr. BENSON: Yes, although governed by regulation it has been the same provision as this, governed by 17 (2).

Mr. KNOWLES: Will this apply generally?

Hon. Mr. BENSON: We will have to consider it, and we will be looking into something we have not considered before.

Mr. LEBOE: If you have a retired pensioner and you have someone else working in the Public Service doing a job that is going to cost X number of dollars, if that civil servant happens to become the one who is getting the pension, he is going to get the same number of dollars. What you are asking for is discrimination against the individual who is going to move into the Civil Service and then you may have the situation that this individual who may be very capable and very valuable to the Government is going to be lost to the Government because of this particular matter, and it isn't going to cost the Government a five-cent piece more, as you have indicated, because where you have two people you are paying the same amount of money and the recovery on income tax might balance it.

Hon. Mr. BENSON: I think the position has been that in most instances where officers have gone into the Civil Service to work, they have done it by choice although they could have gone into other jobs. However they moved into the Public Service and the guarantee they received was that they could earn an amount in the Public Service which added to their pension would bring it up to the salary of the rank they had in the service on retiring. If this salary moved up, the amount they could get in their pension also moved up. What we are doing now is we are saying they can get their salary plus a pension floor of \$4,200.

Mr. LEBOE: I cannot follow the logic when you say it will cost the Government the same amount.

Hon. Mr. BENSON: For the particular job it costs the same amount, but the Government also contributes towards the pension of the retired officer.

Mr. LEBOE: But that will be on the basis of the Public Service and on the basis of the officer's rank.

Hon. Mr. BENSON: No, we are talking about officers' pensions now—officers who have retired. The reason the problem arises with respect to officers and is very rare with respect to civil servants is that officers retire from the armed services at, say, 50 years of age, and many of them at 45 years of age. Then they are entitled to a pension of several thousand dollars. Then they go into the

Public Service and work and take a job. The previous law has been the amount they could get in the Public Service plus their pension, the salary they get plus their pension must not exceed the amount they obtained in their equivalent rank in the armed services. We are saying they can get the full salary of any job they move into in the service plus a floor of \$4,200 before it will affect his pension.

Mr. LEBOE: What you are saying, in essence, is that the deduction in the superannuation when they go into the Public Service is not the same as for some other person who goes into the Public Service?

Hon. Mr. BENSON: Well, they are working towards another pension then. This is a second pension.

Mr. LEBOE: This is the deal.

Hon. Mr. BENSON: There there is no problem because the amount they contribute to superannuation, that is the Civil Service superannuation, is the same as for any other civil servant, $6\frac{1}{2}$ per cent. What we are talking about is the pension they may have the benefit of receiving at age 45, from 20 or 25 years' service in the armed services.

Mr. LEBOE: I see that, but I cannot follow the logic of what you are saying. I think you should be saying you ask an individual, after he has received a pension in the armed services, to come into the Public Service and save the Government money, and not to cost the Government more money—to save the Government money under the legislation.

Hon. Mr. BENSON: That is true in a sense, but there is a principle involved here, I believe. If you have an employee—and, as Mr. Bell says, we have partially breached this principle—if you have an employee to whom you contribute \$4 for every dollar that he contributes towards his pension in the services and he retires at age 45, and then he becomes an employee of yours again, should you give him his complete pension from the first job plus the full salary of the new job, plus his entitlement to a new pension?

Mr. LEBOE: I would say absolutely, because he can elect to stay out of the Public Service and you will have to pay somebody else the same money to take that position.

Hon. Mr. BENSON: This is his choice, and the reason we have the problem is because many officers, even under the regulations as they existed, where an officer had no floor on his pension when he moved into the Public Service, chose to work for the Public Service.

Mr. LEBOE: I am thinking of the case of an individual who is very valuable to the Public Service. In a case of that kind the Public Service will say to that man, "We want you," and he says, "I am not interested because of the situation," and you are depriving the Public Service of certain qualified people.

Hon. Mr. BENSON: Yes, but, of course, this is also true of the position where somebody demands \$35,000 to come to work for the Public Service. Should you be able to go out and hire him at a salary above everybody else for the Public Service?

Mr. LEBOE: This is "haywire" because of the fact we are taxpayers. Whether we pay taxes to the municipal or provincial or federal government, we

are all taxpayers. If this same individual can go out and take the taxpayers' money as a result of being in the public service in a provincial administration without any question, it is all tax dollars and the principle goes out the window.

Mr. KNOWLES: Does the Minister know of any private industry that pays a man a pension and takes it back in part?

Hon. Mr. BENSON: My experience in private industry has been that where a person who retires from industry they do not pay the additional salary. If they hire them back often people come back to work at a rather nominal amount to more or less cover their expenses. In my experience in several firms, they retire at age 65, whereas in the armed forces they retire at age 45. If the armed forces said that officers could stay to age 65 this problem would not exist, just as it exists very little with respect to the Civil Service. A civil servant can come back in, but the total amount they may draw is up to the salary of that position they held prior to retirement in the Civil Service. The same for officers.

Mr. TARDIF: This applies to the City of Ottawa too.

Hon. Mr. BENSON: Yes.

Mr. McCLEAVE: Is it possible, Mr. Minister, that these officers employed in the Public Service could take home less pay under this new formula than they have now?

Hon. Mr. BENSON: No, I am told they cannot.

Mr. McCLEAVE: I have the two formulae here and as I understand it the proposal is the maximum that can be taken out of the pension would be \$4,218 a year. Is that not correct?

Hon. Mr. BENSON: Yes. The proposal really is to retain the present formula, but to underpin it with this floor of \$4,200, so they could not take home less than they take home at the present.

Mr. McCLEAVE: Is it possible they could take home a pension greater than \$4,218?

Hon. Mr. BENSON: Yes, of course. This is the floor; we are pinning a floor under it.

Mr. BELL (*Carleton*): It is a figure which is just ignored in the calculation. Is it truly a floor? Is it not an amount you ignore totally in making your calculation, based on the existing formula?

Hon. Mr. BENSON: Really what we are doing is, under the application of the present formula, we are saying you can draw from a pension fund an amount up to the equivalent rank. Where the amount of a pension they could draw is less than the \$4,200 for 35 years' service, they would get that amount.

Here is a situation, where an officer now draws, after 30 years' service, \$7,023.99, and he would continue to draw it under the present proposal. With 25 years' service he draws \$6,775. He continues to get this. Another case, where somebody draws \$5,723. These are actual cases. In the case of a chief petty officer with 25 years' service drawing \$3,240 of pension, that is above the floor and would remain the same; and 20 years' is above the floor as well. So anybody above the floor it would not affect, but anyone with a pension that he draws below the floor for a number of years service, for a staff sergeant, he would get this benefit.

Mr. McCLEAVE: It is possible, Mr. Minister, for an officer now working in the Public Service of Canada to say, draw \$5,000 a year pension plus a salary in the Public Service?

Hon. Mr. BENSON: It is now possible to do this, depending on his rank pay in the service, and it will be possible to do this in the future. But what we are saying is that when the formula is applied we will not allow a person to draw less than the pension indicated here from the pension fund. That is the \$4,200 for 35 years' service.

Mr. BELL (*Carleton*): We will obviously have to argue it out, and at the appropriate time we may want to hear Mr. Walker's comments on it.

Mr. KNOWLES: I would like to put to the minister three questions relating to clause 9. They are on matters that we discussed with the experts, but we were referred to the minister. May I say that in asking these questions it might sound as though I accepted the *fait accompli*, or the whole philosophy that flows through this bill. The minister knows that I do not, but he also knows that sometimes we have to deal with a *fait accompli*. My questions are specific, and the first one relates to clause 9 where this is a provision requiring a person, whose combination of superannuation and Canada Pension Plan payment at age 65 falls short of what his superannuation was prior to age 65, to apply for the difference. That is the subject of my first question, and I will come back to it in a moment. I want to put the bases of my three questions first.

My second question relates to the wording in the clause which says that if there is a make-up allowance granted the effective date of that make-up allowance is to be determined by the regulations.

My third question will relate to the fact that a civil servant who retires, say, at the age of 62 and who takes some other job and, therefore, does not get his Canada Pension Plan benefit while he is working, assuming he works past age 65, has his superannuation reduced at age 65 but does not get any figure to keep his superannuation at that level.

Now, having given you the bases of my three questions, I come back to the first one. Why should it be necessary for a person to apply for a short-fall that occurs through no fault of his own? We were told by the experts to look at the Canada Pension Plan. I have looked again at the Canada Pension Plan and found that there are sections—around sections 104, 105 or 106—that provide for an employee to give permission that information concerning his account be given to those who might require it. In fact, the Department of Finance and the Department of National Revenue are named. Is there not some way in which under the provisions of the Canada Pension Plan this necessity of applying could be avoided? We all know there are cases of people who have missed things to which they are entitled simply because of ignorance of them, and there may be ignorance of such a short-fall. Is there not any way by which the necessity of applying could be done away with?

Hon. Mr. BENSON: What we are proposing to do, Mr. Knowles, is that when a person reaches the age of 65 and his pension is reduced by the superannuation formula that has been worked out—the integration formula—he will be notified in writing that it has been reduced, and if the amount is not made up by the

Canada Pension Plan he should notify us immediately, and he will then, presumably, give us permission to look at his Canada Pension Plan records, and we will then pick it up.

For the Government of the day to assume the task of doing this would mean, I believe, under the Canada Pension Plan—it is a long time since I looked at the act—that we would have to get a waiver from every civil servant when he retires, and then compare every case. The majority of them would not have to be compared because they would be all right. It was felt that the simpler method of handling this was to notify the person who is retiring that the reduction has taken place under the formula, and that this is why his pension is going down, and also inform him that if the short-fall is not made up by the Canada Pension Plan then he should get in touch with the Government which will sort it out for him.

Mr. KNOWLES: Mr. Benson, in the first place, if it is a statutory problem it can be taken care of in the time honoured way. There could be a clause in this bill which says that notwithstanding the provisions of such and such—

Mr. BENSON: Mind you, this is putting the burden on the—

Mr. KNOWLES: Just a minute. You are going through the business of notifying a civil servant that his superannuation is being reduced. You are asking him to look at the whole situation. Is it beyond the capacity of these computers to tell the retired person at the same time that his superannuation is being reduced by X dollars, and that the Canada Pension Plan benefit that he is picking up is Y dollars, so obviously he is getting more or obviously he is getting less? I mean, people do miss out on these things through no fault of their own—perhaps through just a failure to deal with it. It seems to me that a short-fall that is affected by legislation should be taken care of automatically.

Hon. Mr. BENSON: Yes. Well, the difficulty involved is, of course, first of all, in the fact that the two pension plans are being administered by two different departments of government. It is not difficult for two departments to get together, but in the case of the Quebec Pension Plan they are being administered by two different governments. The short-fall of some civil servants will arise as a result of the Quebec Pension Plan not making up the difference. That is administered by the Quebec Government as such.

I think that by informing people at the age of 65 that the Quebec Pension Plan or the Canada Pension Plan should make up the amount by which their superannuation is being reduced we will induce them to come back to us. As you say, there could be an instance of where they do not come back. The alternative, of course, is to take every person who retires and get the figures from the Quebec Pension Plan, but we cannot legislate—

Mr. KNOWLES: Do not victimize the people who come under the Canada Pension Plan because—

Hon. Mr. BENSON: Very well. We would have to get a figure from the Canada Pension Plan, but perhaps we could not get it in respect of the Quebec Pension Plan. We would then have to compare these two figures, and then correct the situation. If we did this for federal civil servants I believe we would not refuse to do it for other people such as provincial civil servants who are going to be in the same situation, and for those people in industry—

Mr. KNOWLES: You are not reducing the Public Service Superannuation Fund with respect to provincial civil servants.

Hon. Mr. BENSON: But they may be reduced and—

Mr. KNOWLES: But they do not have the right to apply to you for a make-up of the short-fall.

Hon. Mr. BENSON: No, but they have the right to apply to the province or to their employer for a short-fall.

Mr. KNOWLES: Mr. Minister, you are avoiding the issue. It is you—you, the Government of Canada—that has this legislation under which a short-fall is possible, and you, the Government of Canada, has undertaken to legislate to make up that short-fall.

Hon. Mr. BENSON: That is right.

Mr. KNOWLES: And you have given us great faith in the computers. Well, having stated that, I should like the minister to look at it.

Hon. Mr. BENSON: I will look at it. I am not against doing anything that is fair to the employee. I just have to look at the mechanics of doing this, and also the statutory provisions.

Mr. KNOWLES: You do not have any trouble in letting people know where there is a short-fall in their income tax.

Hon. Mr. BENSON: I have more trouble than I want. I have not yet got all the returns assessed.

Mr. CHATTERTON: Other than in cases where persons continue to work at 65, and, assuming Quebec does not change its benefits, have you worked out any cases in which the combined pension is less?

Mr. Hart Clark, Director, Pensions and Social Insurance, Department of Finance: In the examples that we have worked out this result has not flowed, but it comes very close when you get to 30 and 35 years from now. You could, I think, determine circumstances where it would become less, and the guarantee would then have to come into play.

Mr. CHATTERTON: But it would be only in very rare cases years from now?

Mr. CLARK: That is right.

Mr. WALKER: I have a supplementary question. Is there a cut-off date for the notification?

Hon. Mr. BENSON: No, they can apply at any time.

Mr. KNOWLES: My second question has to do with the effective—

The Co-CHAIRMAN (Mr. Richard): Mr. Knowles, I think Senator Fergusson has a supplementary question.

Senator FERGUSSON: When a pensioner finds he is subject to a short-fall at the age of 65, and he advises the department of this, and it is reinstated for him, does the reinstatement go back to the time when he started to lose it?

Hon. Mr. BENSON: Yes, of course.

Mr. KNOWLES: Just a minute. That is my second question. I ask Senator Fergusson to look at the act. Its date is effective from the time of the resignation, and the minister assured us that it would go back to that date. It seems to me this should be in the statute.

Hon. Mr. BENSON: The reason for the regulation is that there are complicated cases to deal with, with respect to disability and that sort of benefit. In the standard case it will go back to the date in which the short fall takes place. The first reason for wanting to put it in as a regulation is that it is difficult to define it and to take care of all the cases. We are giving the committee assurance in the case of retired civil servants in normal retirement that it would always go back to the date of the short fall.

Senator FERGUSON: I did not realize that was going to be Mr. Knowles' second question. I became confused from all the questions he put from the beginning.

Mr. KNOWLES: I don't wonder. However, Mr. Minister, I would appreciate it if you could give us that assurance.

Hon. Mr. BENSON: The sole reason for regulation is that it is difficult to take care of cases and it would make the statute very complicated, because there are other cases besides retirement, there is disability, and so on.

Mr. KNOWLES: There are many cases in government setups where there are plans that if you do not meet the deadline you don't get it. I gather that under this there would be no time factor, that if a person discovers three or four or five years after, if there had been a short fall, he will be able to get the make-up payment back to the date of retirement.

Hon. Mr. BENSON: That is right, if it is a case of straight retirement.

Mr. KNOWLES: Mr. Benson, my third question is one that we argued at length the other day and I do not need to repeat the argument; I would like your comment on it, and also whether you see any solution to it.

I recognize the arguments which Dr. Davidson and Mr. Clark put up about the retired civil servant that goes back to work—a man retired at 62 who goes back to work for five or six years, that he should not be treated any differently from a person who does not go back to work. Both of them pay for an annuity, which on the low \$5,000 plan would be only 1.3 per year up to age 65. However, you have assured civil servants that they will suffer no loss in benefits as a result of the coming into effect of the Canada Pension Plan. Post office employees—and they are your friends in particular—

Hon. Mr. BENSON: Generally speaking.

Hon. Mr. KNOWLES: Before the Canada Pension Plan came into effect they could get in 35 years service and retire on pension and go to work at something else and not suffer any reduction in their Public Service pension at age 65. Now they will suffer. They will not get the Canada Pension Plan and under the terms of some of the subclauses here they will not get a make-up grant. How do you explain this change in benefit and right to your postal worker friends?

Hon. Mr. BENSON: I would like to explain it to all civil servants, including postal workers. On full retirement there is no loss. I think it was subject to the condition of full retirement. I thought Mr. Bryce made this clear to the Canada

Pension Plan Committee, as I recall his evidence at that time, that if a civil servant fully retires, the make-up is there and there is no loss in benefit. If he chooses to work somewhere else at age 65 then the Canada Pension Plan comes into play and he is in exactly the same position with respect to the Canada Pension Plan portion of his pension as any other Canadian. Therefore, he may earn a certain amount of money without affecting his benefit under the Canada Pension Plan and if he chooses to build up his Canada Pension Plan credit, which he could do by working between 65 and 70, we do not reduce the amount of the superannuation when he finally gets his Canada Pension Plan, but he does not get a make-up from the Superannuation Act in order to put him in a position which he would be in if he decided to retire fully.

I have heard of what Dr. Davidson and Mr. Clark said. I do not think I can add anything material to that.

Mr. KNOWLES: You are also aware of what you said this morning about the officers in the Armed Forces. There is a bit of breaching of the position there. You do not want to be unfair to these people. I realize what Mr. Bryce said to the Canada Pension Plan Committee which was on December 15, 1964, about these people who go back to work; but he also said before he got to that, as Mr. Pennell did in the house, that there would be no loss of benefits. Perhaps I may be a semanticist here, and am interpreting the benefits in the broad general way, but that is the interpretation that many civil servants have put on it that there is to be no loss of benefit.

Now, one of the benefits they have enjoyed to the present time—I am not speaking of people with big pensions who are going back to work, but of people whose pensions frequently just make it necessary for them to go back to work. Previously they had the right to do this and would suffer no loss in their Public Service superannuation pension. Now they do.

Hon. Mr. BENSON: I agree. However, I should make it clear to the committee that the position which the Government arrived at in this regard was done in full consultation with the Pension Advisory Committee, and indeed it was explained quite fully to the chairman of the National Joint Council in a letter to him by the former Minister of Finance, the Honourable Walter Gordon—the position was explained fully to him, and since no representations were received objecting to it it was accepted.

Mr. KNOWLES: One of the members of the committee said he resisted.

Hon. Mr. BENSON: I do not want to take the letter of the former Minister of Finance, but in this letter, which I took the trouble to read last night, the position was set out quite clearly to the chairman of the National Joint Council, and it was accepted.

Mr. KNOWLES: I recognize the force of Dr. Davidson's arguments, and I am sure he won't mind my saying that we discussed it privately, but I do think there is a parallel between this and the officer problem. I think there is a particular problem there. One principle would take you one way, and another principle would take you the other, and you are finding a compromise. I wonder if some way could be found even on a temporary basis for a few years to deal with the problem of those who feel they have a commitment in the Public Service? I will not pursue it further. I ask you to look at it between now and when we get this back to the house.

Mr. BELL (*Carleton*): I am deeply concerned in connection with this matter and would like to suggest that the minister and his officials should look again at the problem respecting these persons who enter the Public Service hereafter. I venture to suggest to the minister that the attitude which should be taken is that those who are in the Public Service now have a vested right by stature, and that to take that right away is in effect breaching what they were entitled to accept by reason of guarantees in the Parliament of Canada. I venture to put it to the minister that he should consider some type of make-up for that situation for those who are in the Public Service at this time. I suggest that there is something very close to a breach of an employment contract with those who are in the service now.

Hon. Mr. BENSON: Certainly we will take a look at it again. The position that has been arrived at is the agreed position in this regard, as indicated to you, that the National Joint Council have been fully informed all the way along. It is the position of industry with an integrated plan—I know that Mr. Knowles is going to say that nobody is going to integrate industry—but plans in industry are integrated even with the O.A.S., and even if they are integrated with the Canada Pension Plan to provide for early retirement at age 60, the problem is that the pension will be reduced at 65 if a person does not get the Canada Pension Plan because he chooses to work. One must remember that the only reason a person chooses to work is that he can get more money than he is getting out of the C.P.P.

Mr. KNOWLES: It may be a necessity.

Mr. BELL (*Carleton*): In many cases today it is a necessity.

Hon. Mr. BENSON: In future there is the added advantages under C.P.P. that it does escalate according to average wages.

Mr. BELL (*Carleton*): Mr. Chairman, I think we will have to argue this matter.

Hon. Mr. BENSON: This is a windfall benefit that will come to people in the Civil Service because by switching over to C.P.P. then they have part of the pension put into a pension attached to an index that will increase in the future.

Mr. KNOWLES: Put them both on that level.

Hon. Mr. BENSON: It costs money.

Mr. CHATTERTON: The definition of disability in CPP is somewhat different from the definition of disability under the Civil Service Act. Do you foresee the possibility of a person receiving a disability pension under CPP and continuing to work under the Civil Service Act?

Mr. CLARK: We could see it going either way, that he could under some circumstances possibly qualify under CPP and not under ours, and vice versa—though I think he is more apt to qualify under the Public Service Superannuation Act than under the CPP.

Hon. Mr. BENSON: I think that is the case.

Mr. KNOWLES: In that case, that you have just described, do you have any provision to make up the short fall?

Mr. CLARK: In the case of disability, and if he did not qualify under CPP, the full benefit would be payable on the 2 per cent basis.

Hon. Mr. BENSON: Yes.

Mr. CLARK: Up until the retirement pension became payable under CPP.

Mr. BELL (*Carleton*): I have two other matters of principle on which we need some help from the minister. The first is in respect to the lock-in under clause 11. I would like to ask the minister if he would take another look at this particular provision. I think there is considerable concern in the Public Service now as to appreciation of what this clause provides. I would like the minister to take with his officials another look at the matter.

Hon. Mr. BENSON: We will take a look at the evidence which has been submitted. I personally am a great believer in a lock-in pension. One of the difficulties that existed with respect to people who have retired in this country is that they build up a pension plan for some time; then they leave their job and get those pension plan payments back. They go into another job and then leave that and get the second pension plan payments back. When they get to age 65 they have nothing to live on.

This is the great advantage of lock-in. This is not a sharp lock-in provision. It is at age 45 and 10 years service. It is for future contributions. If someone is in the Public Service to age 45, and has worked 10 years in the Public Service, he has an amount of pension due to him. It is to his benefit to have that locked in. Only in this way can you build to a position in Canada where you have real portability of pensions, so that pension accumulates throughout the person's working lifetime and therefore he is entitled to a pension based on the number of years he has worked and the total amount of money he has earned.

Mr. BELL (*Carleton*): I agree, if this is a forerunner of a real system of portability of pensions and if we could see the other legislation which the minister may have in mind, and if we are to realize that it is an attempt to deal effectively with portability within federal jurisdiction and to integrate with the provincial portability—

Hon. Mr. BENSON: That is right.

Mr. BELL (*Carleton*): —schemes in full. But I do have concern as to providing this lock-in at this stage, until we do have the scheme.

Hon. Mr. BENSON: It is left in here to a date of effectiveness to be proclaimed by the Governor in Council. The reason for doing that was so that, when we have the other legislation, we can proclaim this section and they could start at exactly the same time.

Mr. BELL (*Carleton*): Will the minister give a commitment to the committee that he will not proclaim this until we have this other effective legislation?

Hon. Mr. BENSON: This is the intention. I can give my commitment. I cannot commit future governments. However, why talk about future governments—we are going to have the pension plan legislation through to provide portability, we hope, in this session.

Mr. KNOWLES: The minister promised it soon, and it has been promised before recess.

Hon. Mr. BENSON: Before recess?

The Co-CHAIRMAN (*Mr. Richard*): A lot depends on the members of the House of Commons.

Mr. CHATTERTON: Is there any case where the dollar value of the cash return is worth more than the present value of the cash annuity?

Mr. CLARK: In relation to age 45? This is what you mean?

Mr. CHATTERTON: Yes.

Mr. CLARK: Subject to confirmation from our actuaries from the Department of Insurance, I would think that the return of contributions at that age would invariably be less than the present value, including the survivor benefits attached to it, the possible future disability benefits attached to it.

Mr. CHATTERTON: Perhaps the other Mr. Clarke can tell me if there is any one case where the present dollar value of the cash return is worth more than the present dollar value, including survivor benefits, of a deferred annuity, at that age.

Mr. E. E. Clarke, Chief Actuary, Department of Insurance: I cannot imagine it in the usual case. It might happen, of course, if the person entered the Public Service at age 16 and obtained a return of contributions after five years of service, that the cost of the deferred pension benefit would be close to the return of contributions. The reason is that the cost of pension benefits is very low at the young ages because it is a long time before the benefit has to be paid. I would think that in 99 per cent, or perhaps even 99.9 per cent of the cases, the value of the deferred annuity benefit is much greater than a return of contributions.

Mr. KNOWLES: An effective public relations job is needed on this whole business of the relationship between various pension plans, where these lock-in provisions fit into the present structure we are trying to build. It seems to me that much of the complaint arises from misunderstanding. There is a public relations job to be done in this respect.

Hon. Mr. BENSON: I agree with you. It is our intention to produce an information bulletin which will give a full explanation of this. Some people believe we are going to take pension benefits which they can get out now and lock them in. This only applies to future contributions and the lock-in contribution to age 45. In answer to your question, we are going to try to do a public relations job with the Civil Service, to make sure that they understand fully.

Mr. KNOWLES: I mean, not just explaining to them that you are not taking any contributions from them, but where this fits into the total effort to build a solid pension.

Hon. Mr. BENSON: A solid pension scheme in the country.

Mr. BELL (*Carleton*): The other point, briefly, is one discussed with Dr. Davidson. Even his usual convincing style did not succeed in convincing me. Generally, throughout the bill, the powers which in the past have been vested in the Treasury Board will, under this legislation, be vested in the minister—either the Minister of Finance or the Minister of National Defence, as the case may be. I have some concern about this, as to whether it will give unevenness of administration and as to whether there may not be hardships

arising from time to time. It seems to me that there is a salutary advantage in the review of these cases by Treasury Board staff and finally by three ministers or such a quorum of the Treasury Board. I wonder if the minister would comment on the reason the Government has in making this particular change, and if they insist upon it would he consider whether there might be a general clause where a person who was dissatisfied with ministerial decision might have the right to appeal to the Treasury Board?

Hon. Mr. BENSON: Certainly I would be willing to consider the last point that was raised by Mr. Bell. However, I would like to say that the idea of transferring these decisions to the Minister of Finance is surely in accordance with the principle laid down by Glassco that administrative decisions should be made by the minister and that Treasury Board should not be burdened down with these particular decisions. I would also like to say from my own experience that it is invariably the Minister of Finance who makes the decision. The recommendation comes, in the particular cases envisaged, to Treasury Board where there are several ministers who are not familiar with the case. The recommendation is made and I cannot think of any case where the recommendation has not been accepted. I would hope that there would be a fair decision and I am sure that this will be the case—that there will be a fair decision by the Minister of Finance in these cases. I would be willing to consider the possibility of providing for an appeal.

Mr. BELL (*Carleton*): I would appreciate that very much. Based on my own experience in dealing with superannuation cases in the Department of Finance I am concerned that there is no appellate jurisdiction, as it were.

(*Translation*)

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Minister, before you leave, I want to say that if you have a look at the French version of Bill C-193 you will note it is called *Loi sur la pension du service public*. This is hardly pleasing to the ear because the proper words in French should be "fonction publique". "Service public" in French is just as bad as if we were to say, in English, "public function". Would it be possible to write a new title for the French version of Bill C-193 which would correct, not only the title but all those instances where the words "service public" appear so as to replace them with "fonction publique" in all cases?

I am making this remark to the members of the committee. Those who know these matters will agree that we should not proceed any further with those words. We thank the newspapers for having pointed out this mistake to us.

(*English*)

Hon. Mr. BENSON: I would like to say it is perfectly acceptable provided we can find a procedural way of doing it.

The Co-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Minister.

We have before us a brief which was just handed to us. It is from the Civil Service Commission and is as a result of a call which we received yesterday from the chief commissioner of the Civil Service, Mr. Carson, who said he would like to appear briefly this morning on Bill C-193. Mr. Carson is accompanied by Mr. G.A. Blackburn, Director General, Staffing Branch, Civil Service Commission. Mr. Carson.

Mr. J. J. Carson, Chairman, Civil Service Commission: Mr. Chairman, I would like to make it very clear to the committee that the Civil Service Commission recognizes that superannuation is none of its statutory concern, but if the committee are contemplating any changes in the proposed bill we would like to draw to the committee's attention one place where we feel the provisions could interfere with effective staffing. This relates to an age-old problem in any large organization where your retirement arrangements are sufficiently rigid that they prevent the opportunity to give attractive retirement pensions to people who have, through no fault of their own, become incapable of coping, either mentally or physically, with certain aspects of the job. This can happen through technology or organizational changes and the varying degrees of senescence that takes place in people. I am not referring to disabled persons in the present definition of disability which is rather a rigid medical definition, but we have civil servants who through no fault of their own are unable to cope with the full demands of the job, and because the retiring arrangements call for an actuarial reduction in the pension they receive, very often this ends up with the department carrying them on the payroll which in our view is not the best solution to utilization of manpower or maintenance of morale in the Public Service. That is all I would like to say.

(Translation)

Mr. CARON: This is not included in the act at the present time?

(English)

Mr. CARSON: No. The amendments, however, that are proposed do not make provision for this opportunity.

(Translation)

Mr. CARON: Since you are claiming that there are two kinds of disabilities, disability which can be established in a pretty definite way by doctors and disability which is more difficult to determine but of which Civil Service Commission people are aware. They can see when a person is physically or mentally afflicted without being really or completely incapable of performing his duties.

(English)

Mr. CARSON: This occurs in a variety of ways; very often the individual is just not capable of coping with the changing nature of his duties. Technology overtakes him and for some reason or other at his age he does not have the capacity to be retrained.

(Translation)

Mr. CARON: Can this be foreseen or observed medically?

(English)

Mr. CARSON: No, not necessarily. Our experience has not been completely satisfactory here. The medical profession, of course, work within the definitions of disability as they see them. The individual is not disabled in terms of coping with life, but he is either aging at too rapid a rate to cope with the demands of

the job or his hearing or his eyesight or a variety of things prevent us from being able to employ him effectively.

(Translation)

Mr. CARON: Have cases like this appeared very often, or are they exceptional?

(English)

Mr. CARSON: No, not too many, but we have seen them here and there in departments, and whenever they do occur they are a real concern.

Mr. BELL (*Carleton*): I wonder, Mr. Carson, if you could indicate whether these representations for the two amendments suggested have been made to the Treasury Board previously, and presumably if they have been turned down.

Mr. CARSON: Not to Treasury Board, but to the Minister of Finance.

Mr. BELL (*Carleton*): But they have not been adopted by the Minister of Finance?

Mr. CARSON: That is correct.

Mr. BELL (*Carleton*): What reasons have been advanced to you for not adopting them?

Mr. CARSON: I am not aware of the reasons. I think it is probable that the Department of Finance felt they had quite enough to cope with in the revisions and this proposal of ours was much lower in the order of priority than anything else. But I would think the Treasury Board or the Department of Finance could answer that.

Mr. BELL (*Carleton*): Is it your proposal that these amendments should be made only to the Public Service Superannuation Act? Do you think it ought to go into the Royal Canadian Mounted Police Superannuation Act and the Diplomatic Service (Special) Superannuation Act?

Mr. CARSON: We are under the impression that they are provided for more effectively in those bills than is the Public Service.

Mr. BELL (*Carleton*): Do you know what the existing provisions are in those bills?

Mr. CARSON: No, I am sorry to say I am not aware of that. You will understand that the Public Service as such is our concern and not those covered under these other acts.

Mr. BELL (*Carleton*): You are concerned with some who are under the Diplomatic Service (Special) Superannuation Act?

Mr. CARSON: Not if they are civil servants. I presume if they are civil servants they are under the Public Service Superannuation Act.

Mr. WALKER, M.P.: Mr. Carson, the question that immediately comes to my mind is: Who decides on this extended definition of "disability" you are speaking of? I presume it was fairly easy before; a medical doctor, if you will, could have done this. But with this new dimension, is it drunkenness or straight incompetence, or incompatibility? These are pretty hard things to define. The

crux of my question is: Who are the people who will be saying that, "‘James Walker’ working in a certain department, because of emotional stress on his job has demonstrated his incompatibility, and incompatibility is not good. This man is ruining this particular department." Who decides this?

Mr. CARSON: We have proposed for the committee's consideration one of two alternatives. I do not think you need to accept both. One is that the definition of "disability" be broadened. This could still be referred to the Department of National Health and Welfare who make these decisions, with this broader interpretation of "disability." Or, alternatively, you could have the proposal come forward from the department to Treasury Board for a special pension arrangement to be made. Either one or the other would be of great assistance in resolving this kind of problem.

Mr. WALKER, M.P.: Who defines "disability" now? Who makes the decision now on disability? Is this done by regulation or practice?

Mr. CARSON: My understanding is that the Department of National Health and Welfare's Civil Service Health Division does.

Mr. WALKER, M.P.: There is nothing spelled out in the legislation which includes the loss of an arm, head or leg?

Mr. CARSON: There is a definition in the main act that has been amended.

Mr. WALKER, M.P.: So it is an extension of the definition of "disability" you are after.

Mr. CHATTERTON: Is it the intention, Mr. Carson, that such a person under the broadened definition would receive a pension which would be the same as he would be given under section 2(d), the P.S.S.A. pension? Is that what you had in mind?

Mr. CARSON: I think so, Mr. Chatterton. Our concern is to try to overcome this problem of the actuarial reduction which takes place, and to permit the individual to go on pension immediately this kind of situation recommends itself.

Mr. CHATTERTON: There is a new factor, and that is the Canada Pension Plan. If a person is relieved under these circumstances he most likely would not be able to get another job. He might not qualify for disability under the Canada Pension Plan with this broadened definition, and then he would be deprived of making contributions to the Canada Pension Plan and thereby earning a pension under that act. This is something that has to be kept in mind.

Mr. CARSON: I quite acknowledge the point you are making. I would suggest the individuals I am referring to would not necessarily be unemployable in some other kind of situation, but, even so, the alternative of carrying him on the payroll to achieve the objective you are seeking here, I think is just very demoralizing to the rest of the staff and, in many cases, to the individual himself.

Mr. CHATTERTON: Would you say the majority of people in this category are elderly employees?

Mr. CARSON: I would not say "elderly." I would want to be extremely careful.

Mr. CHATTERTON: Are they going on in years?

Mr. CARSON: Any time from 50 on we are faced with this kind of situation.

Senator O'LEARY (*Antigonish-Guysborough*): You have covered a question I have in mind with respect to the mechanics of the decision, but I have just a further question, and there is a simple answer. Would that person then on pension be precluded from applying for or being considered for a minor position at a future date?

Mr. CARSON: Not at all.

Mr. KNOWLES: Mr. Chairman, may I pose a problem that strikes me—and, maybe, I have not understood it. Would you not still have the problem on a personal basis of deciding what is the fair thing to do with regard to one of these emotionally disturbed "Jim Walkers"?

Mr. WALKER, M.P.: Does that go on the record, Mr. Chairman?

Mr. KNOWLES: You put it there yourself! All right. Say you have a 52-year old and you have the right to retire him early. I do not know on what pension, and I am not quite sure what kind of pension you have in mind, but certainly it would be less than his salary. Would there still not be the problem of deciding whether or not, out of the goodness of your heart, to carry him instead of putting him on pension? Have you solved the problem in this way?

Mr. CARSON: There is always that kind of human judgment. I think those of you who have even more extensive experience with the Public Service than I have know the pressures that are always there to continue the individual on, and I would expect that if any possible employment could be found for the individual this is always the course that would be elected. But there are recurring situations in which it is almost a hopeless proposition. The individual would be better off to be at home than creating a source of embarrassment and difficulty for himself and his employer. The business of trying to reorganize the job and modify the working environment—these things are always done and, I would hope, would always continue to be done, but there are some situations in which this is not a viable solution, and yet we are faced with the fact the only alternative is an actuarially reduced pension and, under those circumstances, the individual could not be expected to elect to take retirement, and I would think any thoughtful or concerned department would not try to press early retirement unless there could be some more satisfactory arrangement made in terms of the pension available.

Mr. KNOWLES: You speak of the present situation as revolving around an actuarially reduced pension. What do you have in mind in your proposal?

Mr. CARSON: I do not know what the best way to describe it would be. It would be, let us say, a median pension, one that would be equivalent of what the individual would have received if the employer had continued to make his contributions. I do not think you could expect the employer to be making up the equivalent of the employee's contributions as well.

Mr. KNOWLES: You mean for the balance of his normal working period?

Mr. CARSON: Yes, we are proposing really the same pension be made available to the disabled employee.

Mr. CHATTERTON: Can somebody tell us what the formula is for a disability pension under the P.S.S.A.?

Mr. CARSON: I wonder if Mr. Clark would like to answer that?

Mr. CLARK: As long as he has five years of service he can qualify for and receive a pension, if he qualifies as being disabled.

Mr. CHATTERTON: What is the formula?

Mr. CLARK: Two per cent of his average salary on the six-year average basis, multiplied by the number of years of service. In other words, if he had five years of service he could get ten per cent of his average salary over those five years, and if he had ten years of service he could get 20 per cent of his average salary over six years.

Mr. CHATTERTON: You see, Mr. Chairman, I was under the impression that there was a different formula for going on pension by virtue of ill health, but there is not. The person Mr. Carson describes here would not be any better off than he would be if he had been retired on account of disability under section 2.

Mr. CARSON: Yes, but our difficulty is that we cannot retire him as totally disabled.

Mr. CHATTERTON: So there would be a different formula?

Mr. CARSON: Not a different formula, but a broader definition of "disability".

Mrs. WADDS: Mr. Carson, it has been my experience that the definition of "disability" has broadened over the last few years, mainly because of the interpretation doctors have of disabilities. We seem to be up against an increasing number of disabilities. Is this your experience?

Mr. CARSON: Not when they are written into legislation.

Mrs. WADDS: You do not find the term "disability" has now a broad interpretation?

Mr. CARSON: I think there has been a sort of accepted broader interpretation of it, but I do not think this has been the case within the parameters which the Department of National Health and Welfare feels it works.

Mr. KNOWLES: Not under the Disabled Persons Act.

Mr. McCLEAVE: Mr. Chairman, I am wondering if Mr. Carson could say how workable the present practice is in the present situation.

Mr. CARSON: Mr. Chairman, I would not want to over-exaggerate this situation. The Public Service is coping with it in one way or another. It is very difficult for us to give you any exact measure of how many people are now carried on the payroll and yet not able to be effective at all. These are found across the length and breadth of Canada. I have no indication of numbers. When the cases come to my attention they are usually in the context of a department saying: "Can you possibly place this individual elsewhere in the service, because he has become a hopeless proposition within this department?"

Mr. McCLEAVE: Perhaps I could make this point; the Civil Service Commission has taken the rather unusual step, after having been turned down on its submission by the Minister of Finance, of coming directly to this committee. Most of us were intrigued yesterday when we heard about this because we have not heard of such a step being taken before. Obviously there must be some burning and compelling need, Mr. Carson, for you to appear before this committee. You must be able to give us a strong reason as to why you are here.

Mr. CARSON: Mr. Chairman, perhaps my most compelling motivation is to establish in the committee's mind that there is an independent commission.

Mr. McCLEAVE: Now that you have established your independence, can you give us a more precise assessment of what you regard as the seriousness of this problem?

Mr. CARSON: In terms of good management even one of these cases is, I think, a serious problem. In the short period that I have been Chairman of the Commission I must have faced at least each month a case in which a department finds itself locked in with no alternative. An individual is not sufficiently disabled to be certifiable by the Department of National Health and Welfare, and yet no useful purpose is being served by retaining that individual on the payroll. But, he is there, and the unattractiveness of the available pension means that neither the individual nor the department is prepared to move.

Mr. McCLEAVE: This adds up to something like twelve cases a year?

Mr. CARSON: These, I think, are the ones that I hear about.

Mr. McCLEAVE: Do you think the problem will become aggravated because of the growing sophistication of the Public Service in the use of computers and new techniques?

Mr. CARSON: Yes, indeed.

The CO-CHAIRMAN (*Mr. Richard*): I am going to interject a question. Is it not the practice just now, because you have no established regulations other than those that you do have, that such employees as you are talking about really are not given promotions, or are demoted. Is not that what you are arguing?

Mr. CARSON: Indeed. This is an alternative that is also used. In many instances it is a sensible alternative to demote an individual. In some cases it is the choice that the individual himself would elect. But, there are many other cases, I can assure you, in which demotion is no solution, and in which the very act of demotion accelerates the disintegration of the individual.

Mr. BELL (*Carleton*): Mr. Carson's batting average may be only one a month, but I can assure him that my batting average is considerably more than that. I see these cases pretty regularly.

The CO-CHAIRMAN (*Mr. Richard*): If the committee does not mind my interjecting I will say that this is a great worry to me because these are cases in regard to which Mr. Bell and myself and others are often accused of patronage, which, of course, is untrue. We spend most of our time meeting many of these people who complain that they have not been given promotion,

or even that they have been demoted, and often we find that there is some feeling in the department or the commission that these people do not fill the job properly. However, that is not a satisfactory answer, because it does store up trouble within the whole department. This is an area that I think should be considered by the committee and by the commission.

Mr. CARSON: Thank you, Mr. Chairman.

Senator FERGUSON: Because I was employed by, and was in charge of, two fairly large regional federal departments of the civil service I know that this is a great problem. I do not know how wide it is, but I do know I have seen it myself in offices under my jurisdiction. I realize the suggestions that have been made by the Civil Service Commission will probably make for greater efficiency in the departments concerned, and I know that that is what the Civil Service Commission is aiming at, but I would like to know if Mr. Carson has any idea as to whether the amendments he suggested would be welcomed by the employees who might be affected.

Mr. CARSON: Mr. Chairman, I think this is a variable. There are many employees who have indicated that their preference would be to get out if they could have any kind of a reasonable pension arrangement.

Senator FERGUSON: This is my opinion too, and I would like to know if you feel the same way.

Mr. CARSON: There will be some cases in which some encouragement and persuasion would have to be provided, but you can do a far better job of persuading an employee if you have a reasonable proposition to make to him.

Senator FERGUSON: Yes, if you have something to offer him. Thank you.

Mr. WALKER: Mr. Carson, has anybody in the Civil Service—a section head, or anybody—authority at the present time to fire somebody who is incompetent, or somebody who has demonstrated he is the type of person you have in mind when you talk about enlarging the definition of “disability”? Does anybody ever get fired from the Civil Service for these things?

Mr. CARSON: Yes, but you will understand that dismissals are subject to appeal.

Mr. WALKER: Yes, I do.

Mr. CARSON: This, of course, is a very great deterrent to casual firings. I think this year our annual report deals—I am sorry; I do not have the numbers at my finger tips, but they are not very large. They are in the order of several hundreds out of a total of 140,000. This is a very small number. It is very difficult, you know, for a department to prove incompetence satisfactorily in an appeal board setting, and the result is that it is very rarely tried.

Mr. WALKER: As an independent body why do you hesitate to use this procedure more? It is used all the time outside the Civil Service and, mind you, in those cases they have unions which plead the case of the dismissed employee.

Mr. CARSON: You will understand that the commission is not the employer of the civil servant. We are there to safeguard his interests and the interests of the particular department. It is up to the department to take the initiative in

recommending a discharge for incompetence, and we then adjudicate the appeal. In the last analysis I guess it has to be the Governor in Council who sanctions the dismissal.

Mr. WALKER, M.P.: But you do not think you have an unused weapon there which will accomplish what you are asking to have accomplished?

Mr. CARSON: No. In the cases I am referring to—

Mr. WALKER: It would not stick in an appeal?

Mr. CARSON: No, not at all; and it would be unfair to dismiss them on grounds of incompetency because very often this is a gradual deterioration. This is no fault of the individual.

The Co-CHAIRMAN (*Mr. Richard*): Any other questions? Mr. Knowles?

Mr. KNOWLES: I would like to return to a question which was asked earlier. You indicated, Mr. Carson, that you do not work out an exact figure?

Mr. CARSON: We would accept the present disability provisions.

Mr. KNOWLES: But in that amount only I thought you were proposing something in between that.

Mr. CARSON: No. I think we would accept the present disability provisions.

Mr. KNOWLES: In other words, a person with 10 years service who went out now would get a 20 per cent pension?

Mr. CARSON: The individuals we are talking about usually have more than 10 years service; it is up to 20 or 25 years service.

Mr. KNOWLES: Would you put any kind of floor in terms of years before this would become applicable?

Mr. CARSON: No. Our advice to the committee would be that you adopt the disability formula to broaden the possibility of interpretation of the disability formula. Or if this does not commend itself we advise that you consider the alternative route of permitting the Treasury Board to work out a reasonable pension arrangement for the individual, depending upon circumstances.

Mr. KNOWLES: If we did it for disability of this kind we would soon be asked to do it for other kinds of disabilities, too, wouldn't we?

Mr. CARSON: I would of course like to see this extended to the whole range of occupational disability, not just physical or mental disability.

Mr. KNOWLES: Would you do this for members of Parliament too?

Mr. CARSON: I do not think that situation has ever arisen, Mr. Knowles.

The Co-CHAIRMAN (*Mr. Richard*): Mrs. Wadds?

Mrs. WADDs: May I ask the same question in terms of how long an employee has been in the service? Is there any time limit? Is there no floor now?

Mr. CARSON: We do not make any fixed recommendations on this. Certainly if it was felt desirable to put some modifications on when this could be used, if it was available after age 45, that could be done.

Mr. McCLEAVE: Could we hear from Dr. Davidson on this, Mr. Chairman?

The Co-CHAIRMAN (*Mr. Richard*): Dr. Davidson could be called, but I think it should probably be left with the minister.

Dr. George F. Davidson, Secretary, Treasury Board: I think a proposal to this effect was included in a letter which the previous chairman of the Civil Service Commission, Mr. MacNeill, presented to the Minister of Finance, perhaps a year or a year and a half ago. I will go on immediately to say that if a provision to this effect does not appear in the present bill it is not because there was any disagreement as to the validity of the point which had prompted this suggestion from the Commission. However, it is a pretty complicated problem and it has implications for the treatment of persons of this kind that affect other schemes as well as the Public Service superannuation scheme. It has implications, for example, for the treatment of certain kinds of members of the Armed Forces who are presently retired under a regime referred to as being in the interests of the economy or efficiency, which I take it really lies at the back of what Mr. Carson and his colleagues are concerned about; and to make a change of that kind without full consideration of all implications, and of other legislation which is on the statute books at the present time, I think would get us into the kind of difficult situation in terms of inconsistencies between different kinds of legislation that we are anxious to avoid. Therefore, the view of the officers of the Department of Finance and of the Treasury Board staff as they looked at this was that this was a problem that required study, that required a degree of responsibility from the employing departments which we had not yet attained, and that it was just not possible with these complicated problems to try to sort out difficulties having to do with integration in dealing with this particular aspect of the problem.

It may interest all members to note that we have in clause 11, on pages 16 and 17 of the English text taken a timid step in the direction of meeting at least one segment of this problem, in that we have provided for a voluntary action on the part of the individual to take his retirement on an actuarially equivalent basis after the 20 years of service had been completed. That I say is a timid step in the direction of recognizing that there is a problem here of people who after a certain number of years in the service begin to lose their ability to carry on at quite the same level that they are expected to, to carry on in terms of their classification levels and their assigned responsibilities, and we have at least opened the door here by providing the opportunity for individuals to take a voluntary retirement on this basis.

Mr. KNOWLES: At what age?

Dr. DAVIDSON: At age 50, with 20 years of pensionable service. The purpose of this, Mr. Knowles, is to avoid having people move out into the retirement stream so far as the Public Service is concerned with an abnormally small pension that will come back to haunt us when you ask questions in future sessions of Parliament about the number of people with small pensions who are on our retirement list.

Mr. KNOWLES: This age 50 seems in very common relationship with Mr. Carson's last statement concerning age 45.

Dr. DAVIDSON: There is no absolute age that anyone can determine as being the absolute age; but I mention this merely to indicate that we have opened the door so far as the voluntary decision of the individual is concerned. We did not feel in the present circumstances of our knowledge and in the absence of any considered evidence from the employing departments that we would be justified in plunging into the other area which is represented in effect by decisions to compulsorily retire individuals in advance of what they would normally have expected to complete in the way of a career service. We will continue to examine that. These are not the last amendments, I suspect, that will be presented to the Public Service Superannuation Act.

I think we do need to have the evidence of the employing departments, with the managers on the spot of the Public Service, who should be in a position to support and confirm the tentative impression that we have, and that the Civil Service Commission has, as to the prevalence of this kind of problem; and when we have a considered assessment made of the extent of this problem and the steps which should be taken to meet it, and when we have worked out consistent relationships that we think we would have to establish as between terms to be laid down in the Public Service Superannuation Act and the terms that are now laid down in the Canadian Forces Superannuation legislation, we will no doubt come back to Parliament with some kind of provision designed to meet this situation.

If you look at the provisions set out in the regulations applicable under the Canadian Forces Superannuation Act, you see that the provisions respecting retirement to promote economy or efficiency, are in effect based upon the principle of the actuarially reduced equivalent. This is why I would have some concern about moving ahead on Mr. Carson's formula in respect of the Public Service Superannuation Act, without first having had an opportunity to assess the impact of that on the Canadian Forces arrangement. I believe the Canadian Forces arrangement applies also with respect to the R.C.M.P. They do have, as Mr. Carson said, better provisions for dealing with this, but they deal with a situation on the basis of the actuarially reduced equivalent being paid on compulsory retirement, and not on the somewhat more generous basis Mr. Carson has indicated the Commission would have in mind for persons coming under the provisions of the Public Service Superannuation Act.

Mr. McCLEAVE: This is under active study, Dr. Davidson?

Dr. DAVIDSON: This will be under more active study in the future than it has been in the past.

Mr. KNOWLES: Have Dr. Davidson or Mr. Clark yet been able to work out the simplified formula for the computation in clause 9 which I asked about on the first day we met?

Dr. DAVIDSON: Mr. Clark says it is being tabled today, and I am willing to bet it is more complicated than the bill itself.

Mr. KNOWLES: I ask, Mr. Chairman, that it be put as an appendix, rather than in the text, and perhaps Dr. Davidson would look at it to see if he can understand it.

The Co-CHAIRMAN (*Mr. Richard*): That will be done.

Mr. BELL (*Carleton*): Mr. Lloyd Walker is here and I would ask that he be given an opportunity to comment on the minister's answer this morning.

The Co-CHAIRMAN (*Mr. Richard*): Yes, but I should not like to start a precedent of recalling witnesses one after another.

Mr. BELL (*Carleton*): This is an unusual situation.

Mr. Lloyd Walker, President, Association of Canadian Forces Annuitants: I would like to correct some points from yesterday. As an association we are grateful for the consideration being given to us up to this point by the minister and Dr. Davidson. I may have sounded a little harsh on Dr. Davidson yesterday.

One thing I mentioned in passing yesterday has come into a little more prominence because of the minister's statement. I was trying to draw a point between length of service and merit. This is brought out more clearly in the minister's announced intention—which I hope is not firm at this point—that he is only recognizing length of service and has made no provision for merit as represented by promotion or a rank.

Any formula which is an alternate to a principle—and you are making a pretty elastic principle out of this, to start with—must recognize—if you insist on introducing this—both of the main factors that contribute to a man's pension, length of service and ability to progress, as represented by his promotion.

That is our main point of criticism on the minister's announcement.

Secondly, we come back to the point that it is discrimination. It is a little less discrimination than existed, but it is still a basic principle of discrimination. You are treating two groups of people differently under the same act.

People say that we are leading the world. I might point out that we are lagging far behind in this connection. Most other countries have seen the light, in the waste of manpower by training people for 25 or 35 years in the armed forces and then refusing them an opportunity in the Public Service. Most of those in the administrative and technical fields find a retired officer, because of his forced retirement at an early age, a very welcome addition to the Public Service. I think Mr. Carson could either substantiate my feeling on this or dispute it.

Canada is no exception in this respect, that we are training technical people and administrative people to a level that they make a very substantial addition to the Public Service.

To force them to go to industry, to the United States or to provincial governments, is not in the public interest. The degree to which you do this will be the degree to which you pay a man the pension he has earned.

The proposal by the minister this morning does offer some relief, but they are not going to get the people they want. They are going to get the people who have served a long time in the services but have not been able to progress to any great rank—they are the people you are singling out now and offering an opportunity to serve with the Public Service.

I will not belabour this point now but I hope I may have an opportunity to discuss it with the minister again. We will make every effort to do so.

I think the stress should be on merit and not on length of service, if the public interest is to be served.

Senator FERGUSON: Mr. Walker has said that Canada treats retired armed forces personnel in a different manner from that of other countries, that elsewhere these trained people are accepted without discrimination. What other countries treat their service personnel differently?

Mr. WALKER: As I mentioned yesterday, Australia has removed all restrictions, from December 1965. Up to that point, they paid 50 per cent of the pension.

The United States example is not valid, because the serviceman there does not contribute to his pension. Even in that case, without any contribution, he receives \$2,000 plus 50 per cent of his pension. If you figure that for 30 years you have paid 6 per cent of your income, and add it on top of that, this would be quite acceptable.

England has no specific penalty for Public Service.

The Co-CHAIRMAN (*Mr. Richard*): Thank you, Mr. Walker.

The committee adjourned until 3.30 p.m.

APPENDIX "F"

PROPOSED INTEGRATION FORMULA UNDER THE PSSA

P60 = pension payable from age 60 (or later) to 64

P65 = pension payable from age 65 (or later) for life

S = final average salary (best 6 year period)

M = the average of the Year's Maximum Pensionable Earnings for the year in which the PSSA retirement pension becomes payable (but not before age 65) and for each of the 2 preceding years under the CPP

b = years of service before January 1, 1966

a = years of service after January 1, 1966

CPP = the assumed benefit under the CPP calculated at time of retirement from the public service (but not before age 65) based on contributory service under the PSSA and having no regard for any actual reduction in benefit due to the retirement test.

$$P60 = .02 (b+a) S$$

$$P65 = (.02b + .013a) S, \text{ where } S \leq M$$

$$= (.02b + .013a) M + .02 (a+b) (S-M), \text{ where } S > M$$

$P65 \geq P60$ —CPP, where $b > 0$ and the PSSA annuity becomes payable immediately upon retirement.

NOTE: Disability pensions payable from any age are calculated in a like manner on years of service up to retirement on disability with the 1.3 factor applying from date when CPP disability benefit could commence.

APPENDIX "G"

CANADIAN FORCES SUPERANNUATION ACT

ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

Examples of Application of Integration Formula

(Retirement at Age 50)

	Mr. A	Mr. B
(1) Final Salary	7,000	7,000
(2) Average Salary (6 years)	6,000	6,000
(3) Service after January 1, 1966	15	10
(4) Service before January 1, 1966	10	15
(5) Total Service	25	25
(6) Benefit under present Act ^(a)	3,000	3,000
(7) CPP Benefit ^(b)	625	500
(8) Benefit under integration ^(c)	2,375	2,500
(9) Total Benefit ^(d)	3,000	3,000

^(a) The benefit under the present Act provides for a benefit of 2% of the average salary (6 years) for each year of service. In both cases this would be $.02 \times \$6,000 \times 25 = \$3,000$ p.a. This benefit will be payable to 65 under the proposed integration formula.

^(b) The portion of CPP benefit earned while contributing under either of the above Acts is:—

Mr. A who was 35 in 1966 $15 \times \$1,250 = \625 p.a.

—
30

Mr. B who was 40 in 1966 $10 \times \$1,250 = \500 p.a.

—
25

^(c) The proposed benefit under integration is to subtract the CPP benefit payable 65 from the present benefit.

^(d) The total benefit at 65 will be the same as the CFSA or RCMPSA benefit before 65.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations
and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

TUESDAY, JUNE 21, 1966
(Afternoon Sitting)

WITNESSES:

Mr. C. A. Edwards, President, Civil Service Federation of Canada; Mr. W. Kay, National President, Canadian Union of Postal Workers; Dr. F. Davidson, Secretary of the Treasury Board; and Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard, M.P.
and

<i>Representing the Senate</i>	<i>Representing the House of Commons</i>	
Senators	Mr. Ballard,	Mr. Lachance,
Mr. Beaubien (<i>Bedford</i>),	Mr. Bell (<i>Carleton</i>),	Mr. Leboe,
Mr. Cameron,	Mr. Caron,	Mr. Lewis,
Mr. Choquette,	Mr. Chatterton,	Mr. McCleave,
Mr. Croll,	Mr. Crossman,	Mr. Munro,
Mr. Davey,	Mr. Émard,	Mr. Orange,
Mr. Deschatelets,	Mr. Fairweather,	Mr. Ricard,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Rinfret,
Mr. Hastings,	Mr. Hymmen,	Mr. Tardif,
Mr. O'Leary (<i>Antigonish</i> -	Mr. Isabelle,	Mrs. Wadds,
Mrs. Quart,	Mr. Keays,	Mr. Walker—(24).
<i>Guysborough</i>),	Mr. Knowles,	
Mr. Roebuck—(12).		

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, June 21, 1966.

(6)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 3.35 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The honourable Senators Bourget, Fergusson, O'Leary (*Antigonish-Guysborough*), Quart (4).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell, (*Carleton*), Chatterton, Crossman, Fairweather, Hymmen, Keays, Knowles, Lachance, Leboe, McCleave, Orange, Ricard, Richard, Tardif, Walker (16).

In attendance: Mr. C. A. Edwards, President, Civil Service Federation of Canada.

The Committee heard a brief from the Civil Service Federation and questioned the witness thereon.

It was agreed to print appendix A to the Brief as an appendix to this day's proceedings (*See appendix H*).

At 5.45 p.m. the questioning of the witness concluded, the meeting adjourned to 8.00 p.m. this same day.

EVENING SITTING

(7)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.10 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard presiding.

Members present: Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*) (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hymmen, Keays, Knowles, Lachance, McCleave, Orange, Ricard, Richard Tardif, Walker (12).

In attendance: Mr. W. Kay, National President, Canadian Union of Postal Workers; Dr. G. F. Davidson, Secretary for the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Committee questioned the President of the Canadian Union of Postal Workers on his group's brief and then requested comments of the Secretary of the Treasury Board on this presentation as well as that of the afternoon sitting.

The Committee considered Bill C-193 clause by clause as follows:

Clause 1, Stand; Clause 2, Carried; Clause 3, Carried; Clause 4, Carried; Clause 5, Carried; Clause 6, Carried; Clause 7, Carried; Clause 8, Carried; Clause 9, Stand; Clause 10, Carried; Clause 11, Carried; Clause 12, Carried; Clause 13, Carried; Clause 14, Carried; Clause 15, Carried; Clause 16, Carried; Clause 17, Carried; Clause 18, Carried; Clause 19, Carried; Clause 20, Carried; Clause 21, Carried; Clause 22, Carried; Clause 23, Carried; Clause 24, Carried; Clause 25, Carried; Clause 26, Carried; Clause 27, Carried; Clause 28, Carried; Clause 29, Carried; Clause 30, Carried; Clause 31, Carried; Clause 32, Stand; Clause 33, Carried; Clause 34, Carried; Clause 35, Carried; Clause 36, Carried; Clause 37, Carried; Clause 38, Carried; Clause 39, Carried; Clause 40, Stand; Clause 41, Carried; Clause 42, Carried; Clause 43, Carried; Clause 44, Stand; Clause 45, Carried; Clause 46, Carried; Clause 47, Carried; Clause 48, Carried; Clause 49, Carried; Clause 50, Carried; Clause 51, Carried; Clause 52, Carried; Clause 53, Stand; Clause 54, Carried; Clause 55, Carried; Clause 56, Carried; Clause 57, Carried; Clause 58, Carried; Clause 59, Stand; Clause 60, Carried; Clause 61, Carried; Clause 62, Carried; Clause 63, Carried; Clause 64, Carried; Clause 65, Carried; Clause 66, Carried; Clause 67, Carried; Clause 68, Carried; Clause 69, Carried; Clause 70, Stand; Clause 71, Carried; Clause 72, Carried; Clause 73, Carried; Clause 74, Carried; Clause 75, Carried; Clause 76, Carried; Clause 77, Carried; Clause 78, Carried; Clause 79, Carried; Clause 80, Carried; Clause 81, Carried; Clause 82, Carried; Clause 83, Carried; Clause 84, Carried; Clause 85, Carried; Clause 86, Carried; Clause 87, Carried; Clause 88, Carried; Clause 89, Stand; Clause 90, Carried; Clause 91, Carried; Clause 92, Carried; Clause 93, Carried; Clause 94, Carried.

The procedure for discussion on the nine clauses which were allowed to stand was discussed. It was agreed that members wishing to amend these clauses would submit in writing to the Joint Chairmen the proposed amendments prior to the next meeting.

At 9.30 p.m. the meeting was adjourned to 9.30 a.m. Wednesday, June 22, 1966.

Edouard Thomas,
Clerk of the Committee.

AFTERNOON SITTING

EVIDENCE

TUESDAY, June 21, 1966.

The Co-CHAIRMAN (*Mr. Richard*): Order. As stated this morning, we have a brief from the Civil Service Federation of Canada, and Mr. Claude Edwards, the President, is here with Mr. Nelson Porter, the Research Officer. Having looked over this briefly, I would suggest that Mr. Edwards might read his introduction and then read the paragraphs in sequence but allow discussion on each paragraph as we go along. Would that be satisfactory? I think it would be preferable to reading the entire brief through without interruption.

Mr. BELL (*Carleton*): I notice it is under different headings, and I think that would be the more logical approach.

Mr. Claude Edwards, President, Civil Service Federation of Canada: Thank you very much, Mr. Chairman. I realize you have problems as to time and therefore I shall be as brief as I can.

The Civil Service Federation appreciates the opportunity granted to it to present the views of its membership to this Joint-Committee.

It may appear that the Civil Service Federation has purposely ignored the main points of change in the proposed bill, and concerned itself with the secondary aspects. To a certain extent this is true, however with good reason. Our approach is dictated by the fact that the Civil Service Federation is represented on the National Joint Council and as such has already seen the acceptance of certain basic principles in the proposed bill. As an example we refer to the principle of integration of the Public Service Superannuation Act and the Canada Pension Plan. This view, as against that of "stacking" the two plans, was taken upon direction by the Executive Committee of the Civil Service Federation.

If I might digress for a moment here, I would like to add that this does not in our opinion bind us to the acceptance of this principle with respect to any other changes which might take place or with respect to any change in the amount of contributions to the Canada Pension Plan. If the Canada Pension Plan changes, we would hope and expect to have an opportunity of expressing our views having regard to the effect on the public superannuation plan.

As pointed out, much, but not all, of what we have to say to-day will have reference to the secondary position mentioned above. The secondary or housekeeping approach to several items is made necessary because the revised act will not be, as is the case in much of the private sector, subject matter for inclusion under the provision of a collective agreement. This being the case, it is necessary, in fairness to public servants, that all possible tidying up be done now.

One final point before proceeding into our discussion of the proposed bill: it appears from our reading of *Hansard*, that this Bill C-193 was tabled with a note of urgency in that it was only after lengthy debate and a telegram from the Civil Service Federation that the Government agreed to send this bill to a committee. It is our understanding that a time limit of ten days was imposed on this committee to report back to the house. Whereas the Civil Service Federation is interested in seeing the bill passed, it is only interested in seeing it passed if it has been thoroughly studied. We wish to go on record that we are not exerting any pressure on this committee to complete their examination of the bill and if the committee decides to slow the process until it is fully satisfied as to its contents, we shall not dispute such a position.

In fact we are very concerned over the lack of opportunity we have had for an objective study of the legislation and the opportunity to obtain the advice of our members in regard to many aspects of this legislation. This bill proposes such new and misunderstood provisions as the "lock-in" of pension contributions. Our members do not understand or appreciate the reasons for the requirements for "locking-in" primarily because they have never had an opportunity of studying the pros and cons of such proposals. There may be other new approaches in this legislation on which our members may wish to express their opinions. Time has not permitted us to ascertain these.

There were indications in *Hansard* within the last two weeks that many members have taken a great deal of time to study and attempt to understand this bill. We use the term "understand" advisedly as the bill itself is a complicated document for the layman and in this regard we wish to express our wholehearted support of the suggestion recorded in *Hansard* on June 13, 1966 (page 6353), that a White Paper be produced on the amended act. This must be done with a minimum of delay and provided to each public servant. We have in mind the demoralizing effect of other recent and particular changes in the Public Service which have not been adequately communicated and we should not like to see the problem compounded by an announcement of legislation which affects all public servants.

Assurances should be made at the same time to all retired Public Servants that any fears they may have regarding the impact of the "integrated" plans on the Superannuation Account are imaginary rather than real.

The Civil Service Federation supports the intention of the bill to promote greater mobility of the labour force by accepting the principle of portability. However, it is felt that the example of the bill should be more forcefully made.

Changing Section 28, subsection (1) of the Public Service Superannuation Act by broadening the area of transfer of funds to an "approved employer," is an excellent first step. However transfers are still subject to the method of calculation defined in subsection (3) of Section 28. We give this sub-section as it will appear under the proposal:

"Where a contributor ceases to be employed in the Public Service to become employed by any approved employer with whom

the Minister has entered into an agreement pursuant to subsection (2), the Minister may, if the agreement so provides, pay to that employer out of the Superannuation Account

- (a) an amount equal to the total amount paid into the Superannuation Account in respect of that employee, except any portion thereof so paid by Her Majesty in right of Canada,
- (b) such amount paid into the Superannuation Account in respect of that employee by Her Majesty in right of Canada as the Minister determines, and
- (c) such amount representing interest as the Minister determines”.

From reading the above we can see that vesting of a portion of the Government's contribution is not by right, but at the discretion of the Minister. Further, the vesting of interest, part of which is based upon the employee's contributions, is also at the Minister's discretion. The Civil Service Federation contends that vesting should be defined as a right. Further, it is suggested that if a pension plan that would qualify as an approved pension plan, as defined in Bill C-193, is in existence with the new employer of a former public servant and, despite the lack of any reciprocal agreement, if the former public servant and the administrators of this new employer's pension plan can satisfy the Government of the good faith of the transaction, the vested portion should be transferred. This would result in increased portability and serve as a model for Canada.

If a reciprocal agreement cannot be arranged with the new employer of a former public servant the former employee should be permitted to take a deferred annuity at age 65, or at his option, leave on deposit his pension credit with full vesting rights pending the possibility of his present employer subsequently obtaining a reciprocal agreement, or his transfer to a new employer with a reciprocal agreement, or, the introduction of legislation making portable pensions mandatory throughout Canada.

These recommendations concerning increased portability and vesting rights should only apply to a public servant who has had two or more years service, substantially without interruption immediately before his termination from the Public Service.

The Co-CHAIRMAN (*Mr. Richard*): At this point I think Mr. Chatterton has a question.

Mr. CHATTERTON: I take it from the presentation that you are not objecting per se to the lock-in proposal?

Mr. EDWARDS: No, that is right. There is a section dealing with locking-in provisions later in this brief.

Mr. KNOWLES: On the question of reciprocal transfer agreements, have you had any discussion with the authorities as to what the words may mean in this context?

Mr. EDWARDS: No, we have not.

Mr. KNOWLES: Are you seriously afraid there might be a holding-back of some of the employee's contributions?

Mr. EDWARDS: I think there is a possibility from the wording. We are not suggesting it would be so, and we are not suggesting it has been so in the past, but the fact is it is not there as a right.

Mr. KNOWLES: We received in the mail today a copy of a sample agreement in this area between Canada and Laval University. So far as I have had a chance to look at it it seems to be an excellent document. Have you had an opportunity of seeing this?

Mr. EDWARDS: No, we have not had an opportunity to see it. And we have not had an opportunity to study this bill as we would have liked to study it.

As pointed out in our introduction we have not had an opportunity of fully studying the implications of the "locking-in" provisions. Of particular importance we have not had an opportunity to fully determine the viewpoint of our membership. There is considerable misunderstanding of the intent of this legislation and most employees seem to be of the opinion that the proposals in this bill would retroactively apply to present contributors.

Our position on this subject at this time is that the "locking-in" provisions should only apply to 75 per cent of the employees contribution. An employee should be able, at his option, to withdraw up to 25 per cent of his contributions in order to meet particular needs at the change of employment.

We would suggest for the committee's concurrence that special provisions be considered for married women who are not the primary wage earner in a family. We believe that an employee in these circumstances should be able to withdraw all her contributions. She is not legally required to maintain a family and may consider her pension plan as primarily forced savings.

We would also suggest that employees who are "laid-off" should be permitted to withdraw their contributions in full. Many employees in situations such as this are employed in remote areas and return to primary occupations such as farming. The cash value of their pension can be the means of providing the capital they require. Quite often they are not interested, nor do they seek employment in some other area. They work for the government while work is available. When it is no longer available, they return to farming.

The Co-CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. WALKER: Just a general question. Mr. Edwards, have you or somebody from your association been in attendance at these committee meetings at all? Have you heard some of the explanations on this point?

Mr. EDWARDS: Some of my staff have. Unfortunately, I have not been able to attend. I have not had a complete briefing on what has gone on, only on some of the meetings.

Mr. KNOWLES: Have you been able to get clear on one point that has been given to us, that no contributions made prior to January 1, 1966 are locked in?

Mr. EDWARDS: We are quite clear on this point. The point we are making is that the employees generally are not clear on this and that this will demand a real education and communication process to enable them to understand it.

Mr. KNOWLES: I happen to be sympathetically on the side of the provision, but I am concerned about this point. This is in particular an area where a job of public relations needs to be done by the Government. We need the employees to see this proposal just not as something for their own good, but as part of the context to help to build up a substantial pensions structure in Canada as a whole.

Mr. EDWARDS: The most difficult areas I have had with regard to this are with reference to married women employed in the Public Service. If this provision comes in there are hundreds of married women who say they are going to get out of the Public Service before their contributions are locked in.

Mr. KNOWLES: But married women never reach 45!

Mr. EDWARDS: No. Nevertheless some assure me that under this provision they will.

Mr. KNOWLES: Will the fact that Canada Pension Plan benefits are to be available to married women have an effect on the thinking of married women in the Public Service?

Mr. EDWARDS: I would find it really difficult to assess the thinking of married women in the Public Service, but certainly the Canada Pension Plan contributions are locked in and they are reluctant to have their further contributions to a Public Service superannuation plan locked in in a situation where they are not the primary wage earner. What concerns them is they are thinking of this in terms of forced savings. They are going to pay off their mortgage, buy a yacht or winter in Florida, but they do not think of it in terms of a pension at the age of 60.

Mr. WALKER: That is the principle of pensions.

Mr. EDWARDS: Yes.

Mr. CHATTERTON: I assume when you say that the employee should have the option of withdrawing up to 25 per cent of his contributions, if an employee were transferred to an approved employer the Government would transfer only 75 per cent of the Government's contributions also?

Mr. EDWARDS: This would be 25 per cent of his contributions.

Mr. CHATTERTON: And that leaves 75 per cent of the Government's contributions.

Mr. EDWARDS: I would hope the Government would transfer the full vesting of its share.

Mr. CHATTERTON: What would happen in a case where the employee did not elect to take 25 per cent out in cash? What would the Government then pass over to the new approved employer?

Mr. EDWARDS: I would hope that in both cases the Government would pay over to the approved employer its full share in each case. If the employee left under 25 per cent that would make no difference, but if he drew it out that would be his contributions and not the employer's contributions.

Mr. LEBOE: Would that not be discriminatory?

Mr. EDWARDS: Discriminatory, in which way? Against the Government?

Mr. LEBOE: No, against the fellow who left it all in and only collected the same amount from the Government.

Mr. EDWARDS: In each case the Government's full vesting of their contribution would be paid in each case on the transfer to a new employer, or would be locked in. We are thinking in terms of 25 per cent of the employee's contribution.

Mr. ORANGE: Would this 25 per cent optional part of the employee, the full amount, remain in the employer's contribution?

Mr. EDWARDS: Yes, that is right.

Mr. KNOWLES: That amount remains for the deferred annuity, and the pension computed at the time of pensioning would have to be reduced?

Mr. EDWARDS: Obviously, if it was a basis of computing of a pension, the withdrawal of 25 per cent of his contributions would have an effect on his eventual pension, yes.

Mr. LEBOE: This could have the effect of encouraging people to take 25 per cent out because they are still going to gain the use of the 25 per cent, and they are still going to get the employer's contribution as well. It would encourage the individual to take 25 per cent out for his own use, because he would be getting more out per dollar investment.

Mr. EDWARDS: It would be a reduction of his own pension because his contribution would not be so large.

Mr. LEBOE: But not as much as if the employer took his 25 per cent out too.

Mr. EDWARDS: We hope we are suggesting what is being planned in the Province of Ontario and, we understand, is in the Province of Quebec, where an employee has the right to withdraw 25 per cent of his contributions.

Mr. ORANGE: With the employer leaving in his full amount?

Mr. EDWARDS: This is my understanding.

Mr. ORANGE: In fact, assuming the pension would be \$100 a month with full contributions, under the proposal you have the pension would have to be 87 and a half per cent.

Mr. EDWARDS: I would not want to go into computations on it. All I am saying is that if he has contributed over a period of 10 years \$1,000 and transfers his employment to an approved employer, he should be permitted to draw out 25 per cent or \$250 of it, and the vesting of the other \$750 would be locked in along with the employer's share which would be fully vested.

Mr. ORANGE: It seems to me what you are suggesting is not only having the cake and icing but the candles as well.

Mr. EDWARDS: No, I am suggesting what has been already put into effect in Ontario and Quebec.

Mr. KNOWLES: Do you know, in any of those cases of any provision for the employee to come along later and ask to pay it back and get the full pension?

Mr. EDWARDS: I am not aware of that.

Mr. KNOWLES: This is something that needs a great deal of attention, employees asking for the right to pay back their contributions to cover earlier

service. I wonder, with the growing interest in pensions—I think an interest that is encouraged by the fact it is now possible to get a decent pension if you work towards it—whether people could not be sold more on the idea it is good to leave the money in; whether women, for example, could not be persuaded, since they are going to get an old age security pension and perhaps the Canada Pension, that here is another pension. After all, women have come into their own, and pretty soon we are going to have to fight for our rights. Would you hazard a guess as to whether their thinking on this has gone this far?

Mr. EDWARDS: I think it might. It is an educational process. We have continuously pointed out to the employees it is not wise just to withdraw their pension contributions, that they are much better off leaving them and taking an annuity; but I have had, believe it or not, women employees at age 59 telling me they intended to withdraw their contributions from the superannuation plan before they reached their sixtieth birthday in order to get them out to do such things as take a trip to a foreign country, which would be about the poorest investment they could ever make. They would be better off by leaving the money there and going down to the bank and borrowing \$2,000 or \$3,000 against their pension return. It would then be a good investment because within a matter of two years they would have received in return of pension more than they had contributed in their actual contributions.

Mr. CHATTERTON: I think we need more such counselling. We were told, I think, that more than 90 per cent of the participants take out their contributions in cash.

Mr. EDWARDS: This is bad counselling. I am not suggesting whose fault it is, but they are not properly advised that having \$10 at one time is not better than having \$60 later on.

Mr. LEBOE: It is not all strictly a matter of dollars and cents so far as these people are concerned. It is a matter of living to a degree, is it not?

Mr. EDWARDS: This we find is a problem, particularly in the area of employees being laid off. They have limited resources, and the one resource upon which they may be able to capitalize is their contribution to the superannuation fund, and consequently if they can get it out in cash today when they are starving then it is better than waiting for a pension when they reach the age of 60. They may want to use the capital to improve their chances of setting up in a small business, or something like that.

Mr. BELL (*Carleton*): I would like to clear up what your representation is on this, particularly in respect to the impact it may have overall on the situation of portability. Is it your belief that as a general principle an employee should be entitled to withdraw 25 per cent of his contributions when he leaves his employment, leaving in 87½ per cent? If he changes his employment ten times during his working life then he will probably reduce his pension entitlement to such an extent that the pension at the age of 60 or 65 years is probably useless.

Mr. EDWARDS: You have raised a point that we have not fully considered, and I admit we have not.

Mr. BELL (*Carleton*): This is important, because you have one of the best pension plans, and if you are going to set a pattern that is going to be put into

effect generally in respect of all pension plans that are portable then I fear we may get into a position where portability is a bad thing.

Mr. EDWARDS: I think we recognize the importance of portability, and the importance of locking in, because the two go hand in hand. You cannot have portability unless you lock in contributions, but what we are concerned with is that there is already in existence legislation which permits a withdrawal of 25 per cent. This legislation, I understand, is in effect in two or three provinces. When you are running counter to what has been established in making such amendments as are in this bill you run into the problem of trying to sell this to employees as being something that is worthwhile and acceptable. I am not in a position to discuss the pros and cons of whether there should be a 25 per cent withdrawal, and under what circumstances. All I know is that under certain circumstances in Ontario, Quebec, and, I think, Alberta this provision is already in effect.

Mr. BELL (*Carleton*): If you were to counsel any employee you would tell him to leave his 25 per cent in?

Mr. EDWARDS: Yes, I would suggest that an employee should leave his contributions in because if he is going to withdraw his contributions without gaining the benefit of vesting the employer's share then he is certainly losing money.

Mr. BELL (*Carleton*): I am inclined to think that this committee ought to counsel them firmly to leave the 25 per cent in.

Mr. HYMMEN: I would like to ask if these are provincial government pension plans or—

Mr. EDWARDS: I am talking about provincial legislation.

Mr. HYMMEN: With respect to private pension plans?

Mr. EDWARDS: Yes.

Mr. HYMMEN: You say that you understand—

Mr. EDWARDS: Yes, I have not the details. I might say, gentlemen, that we received a copy of this bill only on last Thursday, and we got down to work on it and tried to get some expression of opinion by Monday. We worked our heads off yesterday until midnight in order to get it to this stage.

Mr. WALKER: I have just one general question. I think you stated, Mr. Edwards, that many of the employees consider their pension contributions as almost enforced savings?

Mr. EDWARDS: That is correct.

Mr. WALKER: They regard it as that rather than a payment into a pension plan. If it was not a condition of employment that they have to contribute to the pension plan, have you any rough estimate of how many employees would decline to contribute?

Mr. EDWARDS: I have not any rough estimate but—

Mr. WALKER: Many would not?

Mr. EDWARDS: Yes, particularly married women employed in the Public Service.

Mr. WALKER: The think that I fear, and as Mr. Bell has pointed out, is that some of the things that are now being suggested are in direct conflict to the basic philosophy of a pension plan. In spite of the fact that you feel the principle of a pension plan can be destroyed by opening it up wide and allowing the cashing in of contributions ahead of time, do you feel that we should go along with opening it up to the destruction of the principle of a pension plan?

Mr. EDWARDS: I am not suggesting that you should be opening it up. I am suggesting you should not be closing it entirely to what is in effect at the present time. It is almost impossible to draw out your contributions. What you are suggesting are changes in the method. I am not suggesting it should be opened any wider, but I am suggesting it should not be closed entirely.

Mr. WALKER: I have just one last question. I do not know whether you were here when the Minister—or, perhaps it was Dr. Davidson—said there would have to be some literature, folders, or pamphlets produced explaining fully the purpose of this bill. I presume there will be a long chapter on pension plans in general. Will your problem be solved if this sort of informative material is made available?

Mr. EDWARDS: Very much. I think that this is what is required.

The Co-CHAIRMAN (*Mr. Richard*): Will you go to the next paragraph entitled "Return of Contributions"

Mr. EDWARDS: Attached as Appendix "A" (See Appendix "H") is material extracted from a brief which was intended for the Minister of Finance. Shortly after this brief was completed this present bill was announced and it was deemed appropriate that the material be submitted with this paper.

Appendix "A" presents the Civil Service Federation's request that, when under the act, contributions to the Public Service Superannuation Act are refunded, such refunds should include 4 per cent interest compounded annually. We will not take the time of this committee to read through this appendix unless you so wish it—we believe the merits of our case are adequately presented and that the specific data provided justify our position.

We do recommend your attention to this argument because, as previously stated, this sort of problem must be resolved with reasons that are acceptable to the public servant since this act has been excluded from collective bargaining and all decisions not only must be just, but appear to be just.

Appendix "A" contains a lot of statistical material on the matter of paying interest on a return of contributions, and it gives summaries of the pension plans of provincial and municipal governments, and the amount of interest that is granted, and so on. We feel there should be interest paid on a return of contributions.

Mr. BELL (*Carleton*): There is nothing whatever in the amending bill dealing with this, as I recall.

Mr. EDWARDS: No.

Mr. McCLEAVE: May I suggest that this appendix be printed as a part of our proceedings.

Mr. BELL (*Carleton*): Yes, I think it should be.

Mr. KNOWLES: The whole document will be in.

Mr. McCLEAVE: But Mr. Edwards is not going to read the appendix.

The Co-CHAIRMAN (*Mr. Richard*): Is it agreed that the appendix be printed as part of these proceedings?

Hon. MEMBERS: Agreed.

(For Appendix "A", see Appendix "H".)

The Co-CHAIRMAN (*Mr. Richard*): Prevailing Rate Employees?

Mr. EDWARDS:

We welcome the provisions in this legislation whereby prevailing rate employees, continual seasonal employees, ships officers and ships crews are eligible for superannuation benefits without the former requirement of designation by the employer. Our only concern is that where a six months' waiting period is required that an employee who must await eligibility to participate shall on expiration of the waiting period be considered to be eligible from the commencement of his employment.

"Prevailing Rate" personnel who were not previously designated should be given every opportunity to "buy-back" the time lost as members of the retirement fund at the lowest possible rates, to be extended over the balance of their potential career, and without any interest penalties. This bill is not only an adjustment to effect certain administrative changes, it is also a very excellent opportunity to redress a form of discrimination that has existed too long.

Mr. KNOWLES: Now you are talking our language.

Mr. EDWARDS: Thank you.

Mr. KNOWLES: I think that letting people buy back something that they missed is far more in keeping with what we are trying to do than to ask people to sell something they have already.

Mr. EDWARDS: Certainly we fully support this. There is no difficulty there.

The Co-CHAIRMAN (*Mr. Richard*): Any more comments or questions?

Mr. EDWARDS:

In our opinion, continuing seasonal employees should be permitted to contribute to the Public Service Superannuation Act at a higher rate to compensate for the reduced period of employment they may be subjected to in a year. For example a canal employee may regularly be employed on a six months seasonal basis. In our opinion these employees should be able, at their option, to contribute to superannuation at a double rate in order to reduce the period necessary to qualify for full superannuation benefits.

Mr. LEBOE: We are not touching on the portability question here. What I am trying to say is that an individual may work for six months, such as a farmer, and then for the winter months he may go into the woods and cut logs. Is it their practice to go into other occupations when ice is on the river?

Mr. EDWARDS: With many it is the practice to work in other occupations. Their period of employment may not be six months, but may be eight or ten months, because they will have certain clean-up work to do. This deals with continual seasonal employees.

Mr. LEBOE: Will they get unemployment insurance?

Mr. EDWARDS: They may draw it. They may be drawing overtime credits during this period, but invariably many of them are notable to contribute for a full twelve month period.

Mr. LEBOE: That is what I am getting at. You are thinking of going along the line of justifying a time, for instance, shall we say eight or eight and a half months, in order to settle whether the individual is going to stay with his work or be driven into two jobs continually. It is just a thought.

Mr. EDWARDS: I understand the point you are raising sir, and I do not know exactly the solution for it, but we know there are many people under these circumstances who have eight months employment and so are only earning two-thirds of the superannuation. This is a real problem.

Mr. ORANGE: You are suggesting the employee contribute the balance of the year in which he is not employed?

Mr. EDWARDS: Yes.

Mr. ORANGE: What about the employer?

Mr. EDWARDS: Obviously we hope he will, too. These are continual seasonal employees.

Mr. TARDIF: They would become members of a preferred class.

Mr. EDWARDS: I would not want to say that.

Mr. TARDIF: I am curious, Mr. Chairman, as to how you would class a man that is not working. What class would you put him in?

Mr. EDWARDS: Perhaps I would put him in the unemployed class.

Mr. TARDIF: What class would you put him in if he made contributions to his pension fund while he is not working?

Mr. EDWARDS: I don't propose to put him in any class at all. I am just suggesting that we think it would be equitable to have some arrangement for an employee to pay a higher rate in order to get a year's contributions, because he is in effect remaining in the service of the Government. He is laid off, perhaps for three months, but he comes back year after year.

Mr. TARDIF: Of course, there are many casuals that don't come back year after year.

Mr. EDWARDS: I am not suggesting that be done for these people. These are continual seasonal employees.

Mr. HYMMEN: They could not come under the former arrangement because they were seasonal employees and they could not contribute to PSS, but they would be registered under the Canada Pension Plan, anyway.

Mr. EDWARDS: They will be registered under the Canada Pension Plan, but if they were designated before they can, I understand, contribute under the Superannuation Act as well.

Mr. KNOWLES: Could you not run into great difficulty with people who work the year round? Is there not a problem here if you are going to permit some people to pay on more than they have actually earned in the calendar year?

Mr. EDWARDS: I do not think it means that you have to open the doors to everybody. I think this is a special circumstance of a continual seasonal employee in the employ of the Government year after year, year after year, and who comes back into that same employment. The Government has a stake in this man and that is far preferable to hiring new people every year.

Mr. KNOWLES: Maybe the Government should pay him an annual salary commensurate with his usefulness.

Mr. TARDIF: I agree with Mr. Knowles that it would be easier to convince the Government afterwards to pay an employee who has made a greater contribution, to pay the greater part of the pension too, if this is going to apply to a continual seasonal employee, and if his contribution is paid while he is not there.

Mr. KEAYS: I wonder if this is not a little unfair to employees? What do you think of the employer who, although he has a pension plan for his regular employees, has these seasonal employees coming along every year. How are you going to justify that to the private sector of industry? How are you going to get the private sector to endorse that?

Mr. EDWARDS: My concern about that particular statement is that I think the Government of Canada has to act as an employer, not as a pace setter for other employers in the private sector.

Mr. KEAYS: Well, I don't know. I think that if the Government establishes a principle, then the employees in the private sector will come along and request the same treatment, and I think this is a dangerous precedent to be creating for employees of the private sector, as, for example, in the construction industry.

Mr. EDWARDS: You might use the analogy of school teachers that work nine and ten months of the year, whose contributions to their pension plan are calculated on a yearly basis, and not on a three-quarters basis.

Mr. KEAYS: But in their case they have full employment, and they are expected during the summer holidays to devote part of their time to reorganization of the next school session, and during Christmas holidays etc., to correcting examination papers. So I do not think you can put school teachers in that category. I am speaking of employment in the private sector. In that relationship, I think the Government can establish bad relations between employer and employee.

Mr. LEBOE: I agree with that. I think this is the way you get argument built up to establish yourself in society as a related group. As the honourable member said, you will get construction workers and people who work in the woods who are going to say to themselves that this is the pattern, and that they want this as well. It bothers me, this particular point, and I think we should make some real research into this matter to see exactly what the possible alternative would be.

Mr. EDWARDS: We are not averse to research on such matters, to find out the impact and see what might be done.

There are two important changes we suggest in regard to calculation and payment of benefits. Our mandate for several years has been that pensions should be calculated on the best five years of employment.

Secondly, we believe that any employee who has contributed for the full 35 year period should, at his option, regardless of age or physical condition, be permitted to retire on full pension benefit without penalty.

Mr. CHATTERTON: I am fully in agreement with both paragraphs, but with the second one particularly. At age 35, that is the maximum, but if a person has the right to retire at 35 and take the pension immediately, why not at age 30? Is it because 35 is the maximum?

Mr. EDWARDS: We suggest that age 35 is the maximum contribution period, and that when he has contributed his maximum contribution he should be permitted to retire, if he wishes. It is an option.

Mr. CHATTERTON: I agree with that, but why not also for the man at 30 years of age?

Mr. EDWARDS: There has to be a limitation somewhere and we are suggesting it voluntarily at the age where he has contributed, to 35.

Mr. TARDIF: I have no objection. After a man has paid for 35 years, he has paid the maximum. Being a local member, I find that most civil servants, after 35 years, come to see their members and ask for an extension of one or two years. You can put this clause in and it will not affect the position very much. It will give people permission to say "You know you are able to retire at 35." It would save a lot of trouble.

Mr. ORANGE: You have studied this for years. Has an attempt been made to find out the cost of the recommendation to the pension fund, if it were adopted?

Mr. EDWARDS: No, but if the employee remains after his 35 years and his salary goes up, he will be drawing from the pension plan a higher rate of pension because it will be based on his final salary on a higher amount.

Mr. TARDIF: If that were the case, the employee would have to continue contributing as long as he was employed. At present, when he has been contributing for 35 years, even if he is young enough to remain in the service, he does not contribute any more?

Mr. EDWARDS: That is correct.

Mr. TARDIF: When both he and the Government have contributed for 35 years, will both discontinue, or do you think the employee should continue making contributions?

Mr. EDWARDS: No, we do not think he should continue.

Mr. TARDIF: You want to put him in the same class as a seasonal employee?

Mr. ORANGE: Have you considered the effect of reducing the time for a calculation of pensions from six years to five years, when the cost of adjusting the pensions from the best ten years to the best six years was an additional one-half of one per cent?

Mr. EDWARDS: There was a time when the contribution was based on five years instead of ten years.

Mr. CHATTERTON: It should never have been changed.

Mr. EDWARDS: Thank you.

Mr. KNOWLES: When you ask that the person from 35 years up be able to retire on full pension benefit, without penalty, is it a penalty in clause 9 you had in mind, to reduce the pension by virtue of the Canada Pension Plan?

Mr. EDWARDS: No, we had not thought of it in those terms. If you retire before actual age of 60 or 50 on account of ill health there is a reduced annuity feature.

Mr. KNOWLES: That is the only penalty you are accepting here? You are not looking at that other reduction in the annuity because of the CPP? What is the penalty you had in mind for the reduction in an annuity under the CPP

Mr. EDWARDS: I was thinking there would not be any reduced annuity on account of early retirement.

Mr. KNOWLES: This applies in your thinking only to the 35-year class. He cannot be very young, having put in 35 years service, perhaps from age 18?

Mr. EDWARDS: He would be 53.

Mr. LEBOE: If this were adopted on this basis, would not the next step be to get in the same position as we talked about this morning regarding the armed services, where they would automatically get the pension at age 35 and then enter the Public Service and get their percentage of pension and also full salary. This looks like another step in the same plan.

Mr. EDWARDS: I cannot imagine this would happen within the Public Service. I cannot say it would not happen that a former employee of the service, retiring at age 53, after 35 years service, would go somewhere else and acquire certain pension rights. This is no different to the armed forces case.

Mr. LEBOE: We are starting into the same type of thing here. If a person has earned a pension legitimately he should get it. If he can get another pension, through another salary, this should be given and it should apply equally to the Government. I do not buy this question of one party getting the tax dollar from one place and the other from another place. This is a question of federal taxation, as we have fiscal arrangement and two levels of government and we are all the same taxpayers. When you analyse it in this way, it looks silly.

Mr. EDWARDS:

We refer to Page 9 of Bill C-193—line 25, clause 6, (2). Herein the Minister is authorized to retain from subsequent payments any overpayments on annuities. This approach is not completely satisfactory to the Civil Service Federation. Provision must be made in the law to protect annuitants from the embarrassment of administrative errors and to ensure that recovery of such overpayments be made over the longest possible period of time and without interest charges. The responsibility to be accurate must devolve on the government since it has taken on itself the responsibility for administration of the Superannuation Account.

(Translation)

Mr. TARDIF: According to what the minister told us this morning—and I am saying this in French so that our interpreters will not go to sleep—these things do not happen too often because, normally, these payment methods are extended over a considerable period.

(English)

Mr. EDWARDS: We realize it does not apply in many cases. We are not suggesting it does but we are suggesting that it can provide problems for

employees who through no fault of their own are faced with administrative errors.

On March 24, 1966, the Civil Service Federation wrote to the Leaders of the five political parties concerning the matter of adjusting pensions to compensate for increases in the cost-of-living and resultant decreases in real purchasing power of the superannuates' dollar.

We will not repeat our arguments in this regard—our views are well recorded and were provided to each Member of Parliament on the same date. Further, if our understanding of the proceedings of this Committee on Friday, June 17, 1966, is correct, there is some thought being given to the formulation of a committee to study this matter after the present legislation is effected. However, we do urge that this committee recommend strongly that this Bill C-193 include an escalator clause to ensure justice to future annuitants.

Mr. KNOWLES: You will come back on this later?

Mr. EDWARDS: Yes, I will be happy to do so.

Mr. CHATTERTON: What prompted you to use the cost of living rather than the level of income? I do not know if you appreciate that there is strong objection from many that in the Canada Pension Plan they used the wrong index. If they had used level of income instead of cost of living, these people would get the benefit of any general rise in the standard of living. Was this intentional?

Mr. EDWARDS: It was not intentional. Your point is well taken.

Mr. CHATTERTON: Make it level of income?

Mr. EDWARDS: We would be concerned not only about cost of living but level of income. As income rises, I think there should be an escalator clause.

Mr. CHATTERTON: Had you considered whether this provision should be contained within the PSSA itself? It would be difficult to provide some plan. Or would you have put it in some such way as in the Pension Adjustment Act, 58-59, and have it done periodically?

Mr. EDWARDS: I am rather reluctant to depend upon a pension adjustment act which may depend upon the whims of the government of the moment. I think to depend upon such an act is rather inappropriate and from our point of view we would much rather find it in the legislation.

Mr. LEBOE: Are you prepared to submit to this committee that all pensioners should have an escalator clause attached to their particular pensions wherever these pensions may stem from?

Mr. EDWARDS: I don't think our function as a government employee organization is really to make recommendations in regard to pension plans involving everybody.

Mr. LEBOE: Do you see the danger which lies in your suggestion, at least which I see in your suggestion? If this practice becomes, shall we say, universal, there is going to be little or no restraint in the economy against inflation because everybody is going to say "Well, I have got a pension and there is an escalator clause on it, so I have nothing to worry about." There is not that sense of restraint or responsibility. I feel this greatly. I was not in favour of it in the

Canada Pension Plan and I am not in favour of it now. My reason is this: I don't think we are looking far enough ahead. If we start something like this and it keeps on growing and growing we are heading for trouble.

Mr. EDWARDS: My only retort to that is that my sense of responsibility would be in regard to people who are already retired and find their pensions going down and the value of their dollar is going down and they may end up by not having enough to live on.

Mr. LEBOE: I think this adjustment ought to take place, but I think the fact that you have an adjustment act to look at these things is far better than to get into a situation where you just build in inflation and it grows and nobody is there to stop it and there is no restraint or responsibility.

Mr. KNOWLES: We have escalation for people during their working years to meet rising costs and standards. Why should not we have it for retired people as well?

Mr. WALKER: You might find general agreement with that principle, but what are the mechanics of putting it into operation?

Mr. LEBOE: They must have a sense of responsibility.

Mr. TARDIF: The people that pay taxes to the Government are also contributors to the civil servants superannuation plan. He too may be on a pension bought by paying premiums to an insurance company and if he does not have the benefit of an escalator clause he feels he is not getting the same treatment as the people who benefit from the Public Service plan.

Mr. EDWARDS: I might say this is becoming more prevalent in the private sector of the economy. It is happening, for example, in General Motors. I should imagine that in the price of the automobile you bought and paid for—

Mr. TARDIF: My automobile is bought but it isn't paid for.

Mr. EDWARDS: It may not be General Motors either, but the auto workers are bringing this in, this point in respect of escalation of pensions. It has happened in other governments and there are many arguments in favour of it.

Mr. KNOWLES: In passing I should say that we are glad to see this paragraph in this brief, and we can assure the witness that the matter will be pursued.

Mr. EDWARDS: I am sure it will be pursued. Thank you.

The Civil Service Federation is pleased to note that the amount of death benefit has been increased to the equivalent of annual salary. This is in keeping with representations previously made by the Civil Service Federation.

The Federation also feels however, that the present maximum benefit, which reduces 10 per cent per year from age 60 to 70 to a minimum of \$500, should reduce by 10 per cent per year from age 60 to 70 to a minimum of \$1000. This should be provided from any surpluses under the Death Benefit portion of the Superannuation Plan without any increase in the basic premium of the Death Benefit insurance.

The Co-CHAIRMAN (*Mr. Richard*): Any question?

Mr. ORANGE: Can the fund afford this?

Mr. EDWARDS: I understand it can, because I understand there is a surplus in the death benefit account.

Mr. ORANGE: If it cannot afford it, there will have to be some form of increase.

Mr. EDWARDS: We are suggesting it should be based on the surplus within the fund, if possible.

(Translation)

Mr. TARDIF: Mr. Chairman, does that mean that if an employee dies during his employment, he is given a year's salary as a protection, or in other words that his estate receive a year's salary?

(English)

Mr. EDWARDS: No, he isn't covered. If he opted out of the death benefit plan he would—

Mr. TARDIF: I should have spoken in English. I only speak French occasionally so that the people at the table will not fall asleep. I understand a civil servant pays so much per month to have the protection of two year's salary or for the protection of \$500. Is that increased?

Mr. EDWARDS: At the present time the fully paid up death benefit is \$500. He cannot get less than that.

Mr. TARDIF: Can he get more?

Mr. EDWARDS: No, he does not get it in any event. It goes to his estate.

Mr. TARDIF: I realize that. Even if he did get it, as Mr. Knowles said earlier, it would have to be forwarded to him some place else.

Mr. EDWARDS: If he died before his pension was reduced. The present maximum is \$5,000.

Mr. TARDIF: If he is presently employed and he pays for this protection and he dies while in employment he gets \$5,000?

Mr. EDWARDS: Yes, but it keeps reducing—the amount keeps reducing between 60 and 70 and eventually it is reduced to \$500.

Mr. TARDIF: If it is reduced to that, surely the employee would have to live to be 80.

Mr. EDWARDS: No, to 70.

This proposed bill would delegate certain responsibilities to the Minister which previously were solely those of the Treasury Board. In the proceedings of the meeting of the committee on Friday, June 17, 1966, one member of the committee asked for the reasons and we are satisfied with the intention behind this—but, as suggested by the above noted member, we fully support the view that there should be some method of reviewing decisions made by the Minister and his delegates. The concept of a tribunal or committee, as a court of appeal, commend themselves for consideration.

The Civil Service Federation of Canada objects strongly to an intrusion into the private affairs on public servants. We refer to the

present Public Service Superannuation Act Clause 13(4)—“Notwithstanding anything in this act, the amount of any annual allowance to which the widow of a contributor may be entitled under this act shall, if the age of the contributor exceeds that of his widow by twenty or more years, be reduced by an amount determined in accordance with the regulations.”

The present regulations covering this aspect of the present act are explained in the Treasury Board Manual, Part XXII, page 99.

Our objection to this section, which is left unchanged by Bill C-193, is the penalty imposed upon the widows of persons who have faithfully served their country for a long time and because of a decision to marry later than is perhaps considered normal by arbitrary standards, are subjected to discrimination in this fashion. We request that this aspect of the present act be eliminated completely.

We would also draw your attention to what we consider is a serious shortcoming in the Public Service Superannuation Act.

While the act provides for widows benefits to legal widows or widows of irregular union of seven years standing, there is no provision for payment of an allowance to a surviving dependant of a contributor who has not married.

The Civil Service Federation has had referred to it a specific case which is an excellent illustration.

A former employee of the Government of Canada with 54 years service never married primarily because he supported a sister who has been ill all her life and dependent on her brother for support. The former employee has contributed at the higher rate for male employees but on his death his dependent sister, five years his junior, will not receive any benefit of his superannuation. The Pension Act for veterans of the armed services recognizes this situation and provides in Section 39 for an award of pension under these circumstances. We respectfully suggest that the Committee familiarize themselves with this Pension Act and consider appropriate amendments to the Public Service Superannuation Act to conform.

Mr. TARDIF: This would also represent a penalty on the people who have not chosen to marry. In this particular case this man did not get married because he had a sick sister to support. What about persons who don't get married because nobody asked them?

Mr. EDWARDS: In that case they wouldn't leave any dependents.

Mr. TARDIF: I am not going into that!

Mr. BELL (*Carleton*): I am rather surprised, Mr. Edwards, that you request the total elimination of the deathbed marriage provision. I agree with you fully that there certainly should be some discrimination. The 30 years may be all wrong, but to suggest the man who marries the day before his death should be able to pass along a pension to that widow, I think, is going a little too far. As I understand your suggestion on this, that is precisely what you are suggesting.

Mr. EDWARDS: This is a misunderstanding. This is not what we intended. We suggested it should not be a reduction on the basis of this 20 or more years, but we are not supporting the idea you should have deathbed marriages.

Mr. BELL (*Carleton*): You said, "We request that this aspect of the present act be eliminated completely." I do not think I can go along with you in relation to that. Twice I have put on record in the house in debate on this particular legislation one particular case where in the Canadian Forces Superannuation the widow is 26 years and four months younger than the deceased husband and the marriage lasted for something more than 30 years, and the widow is totally disentitled. In those circumstances there ought to be an opportunity for a widow, but I think some cut-off should be provided.

Mr. KNOWLES: I think Mr. Bell may have misunderstood your paragraph on page 9. You are asking for a change in this provision about the wife being more than 20 years the junior of her husband, but you are not objecting to the new clause being written into the statute by the terms of clause 12 on page 18 of the bill.

Mr. EDWARDS: Yes, I think there is a misunderstanding. We are suggesting there should not be any reduction because of the 20 years.

Mr. KNOWLES: Under this new clause, provided the marriage took place more than a year before death there is a pension.

Mr. EDWARDS: Yes.

Mr. KNOWLES: But during the year the minister has to decide whether it was for love or money.

The Co-CHAIRMAN (*Mr. Richard*): Or both.

Mr. EDWARDS: We have no objection to this.

Mr. KNOWLES: You have no objection to love or money.

The Co-CHAIRMAN (*Mr. Richard*): Shall we go on to the next paragraph: Widows benefit, on page 10.

The proposed amendments to the Public Service Superannuation Act do not make any changes to the level of widows' benefits. The act provides that widows will continue to receive, as a basic allowance, 50 per cent of their husband's annuity. The Civil Service Federation wishes to point out certain facts with respect to widows:

- widows must still pay certain taxes or rent for a residence and their overall expenditures for maintenance are not markedly decreased; medical expenses also increase with age;
- widows frequently are not eligible for Old Age Pension for several years;
- the building of the estate, in particular the pension plan, is a joint venture by both husband and wife in that they mutually make certain sacrifices during the husband's work-life to ensure adequate retirement savings;
- the widow may still be supporting or assisting dependents through higher levels of education;

The above factors are real to the widows. In view of this, the Civil Service Federation requests this committee to consider recommending a realistic level of widow's benefit at 75 per cent of her deceased husband's pension entitlement.

In connection with this problem we also commend your attention to the problem of the widower who has had to be supported by his wife through no fault of his own. In such cases consideration should be given to permitting female public servants in such situations to contribute at the $6\frac{1}{2}$ per cent rate in order to ensure a death benefit and a "widower's pension" for incapacitated widowers.

Mr. WALKER: Is there any thought of an increase in the contribution rates to the annuity to take care of this 25 per cent increase?

Mr. EDWARDS: We would hope the fund would be able to bear this.

Mr. WALKER: Have you talked at all with the people who do the actuarial work on these things?

Mr. EDWARDS: We understand the actuarial position, according to the department, is that it cannot bear the additional cost. This is their opinion.

Mr. TARDIF: It cannot bear it?

Mr. EDWARDS: This, as I understand it, is their position. I am not saying we share that opinion.

Mr. WALKER: The people we get this information from say this particular benefit the fund cannot stand and remain an actuarially sound fund; it cannot stand this recommendation. I am not trying to put words in your mouth.

Mr. EDWARDS: This is what we understand is the position of the actuaries in reference to the fund, that it would be an additional cost on the plan.

Mr. KNOWLES: I take it you have had many discussions with the finance authorities on this?

Mr. EDWARDS: We have been trying to get this benefit for many years.

Mr. KNOWLES: Have you had any encouragement along the way?

Mr. EDWARDS: Very little.

Mr. KNOWLES: Have you used the argument that our members of Parliament Retirement Allowances Act provides for 60 per cent pension to the widow? It is not your 75, but at least it is better than 50 per cent.

Mr. TARDIF: I did not hear that. What percentage?

Mr. KNOWLES: 60 per cent of your pension.

Mr. TARDIF: No, five-twelfths of my contribution, which is not 60 per cent.

The Co-CHAIRMAN (*Senator Bourget*): That is yours.

Mr. KNOWLES: Your pension is five-twelfths and the widow's pension is three-twelfths and, with respect, that is 60 per cent of five-twelfths. That is 60 per cent of your pension.

Mr. TARDIF: That is why I asked you. I did not hear what you said.

Mr. WALKER: In your conversations with the finance people on this, did they or have you suggested what percentage increase in premiums would be needed to accomplish this if they are saying this cannot come out of the fund? Have you talked about one-quarter of 1 per cent or 0.1?

Mr. EDWARDS: I cannot recall whether we have discussed actual requirements this would mean in terms of dollars or percentage.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: If we are through with the rest of the brief, I have another question away back on page one. You said, Mr. Edwards, when reading page one, that your approval of this bill, in so far as it involves integration, was not to be taken as a blanket permanent approval of the principle of integration, but you were approving of what this in fact does in providing for an overall rate of 6½ per cent?

Mr. EDWARDS: Yes, that is correct.

Mr. KNOWLES: In other words, if the Canada Pension Plan a few years from now said integration of these rates was to be made, you would not want to be told you had agreed to integration, but you would like to negotiate perhaps a total higher payment and higher benefit.

Mr. EDWARDS: This is quite correct.

Mr. BELL (*Carleton*): It might be interesting to have on record the number of civil servants Mr. Edwards represents in this federated organization.

Mr. EDWARDS: Approximately 80,000.

Mr. WALKER: How many in Carleton riding!

Mr. BELL (*Carleton*): All the best.

Mr. ORANGE: Whom do you represent?

Mr. EDWARDS: These are all members of the Civil Service from the top professional and administrative classes right down through, in all places throughout Canada.

Mr. ORANGE: You have 80,000 members in your organization?

Mr. EDWARDS: Yes.

Mr. WALKER: Are members of Parliament in that classification?

Mr. EDWARDS: We have not managed to organize them yet.

Mr. BELL (*Carleton*): This is a task not to be recommended to you.

Mr. KNOWLES: Your concurrence in this general plan, does it go way back to 1964? Is it before Mr. Pennell made his first statement on the matter in the House of Commons?

Mr. EDWARDS: I am afraid I do not understand your question.

Mr. KNOWLES: It has been said quite a number of times that your organization, by direction of your executive, agreed with this form of integration.

Mr. EDWARDS: That is correct.

Mr. KNOWLES: That agreement, I take it, was given in 1964.

Mr. EDWARDS: I cannot give you the exact date, but it was certainly given when we discussed this possibility through such media as the National Joint Council and the Advisory Committee on the Public Service Superannuation Act.

Mr. KNOWLES: Have there been any further discussions on it since that time?

Mr. EDWARDS: There have always been pros and cons among our membership, but generally we have accepted this idea of integration of the two plans because many of them were concerned, particularly the younger levels of employees, that they would be in the position of having to pay 8.3 per cent of their salary out in superannuation plan contributions for a long time. Obviously, the benefits to the older contributor within 10 years of retirement are such that he wants to have stacking. He wants one stacked on top of the other. But, the consensus of opinion of the executive of our organization was that integration was acceptable to us at this time on this basis.

Mr. CHATTERTON: Mr. Chairman, I apologize for being absent for a while. I had to make a long distance telephone call. May I revert to the widow's benefit. Are you suggesting that the widow's benefit be increased to 75 per cent?

Mr. EDWARDS: That is correct.

Mr. CHATTERTON: You are keeping in mind, are you not, that starting in 1968 the widows will be entitled to a widow's pension under the Canada Pension Plan? The only exception to that would be those who are under 35 and who have no dependents. In all other cases there is a widow's pension which is quite substantial. There is also the orphan's benefit that arises. It is my general opinion that if we were to integrate them in most cases the widow's benefits might become excessive as compared to the pension itself.

Mr. EDWARDS: We realize that there will be improvements as a result of the Canada Pension Plan features, and that certain benefits in regard to widows are stacked on top of the benefits for widows.

Mr. CHATTERTON: They are all stacked.

Mr. EDWARDS: Yes, we realize this.

Mr. CHATTERTON: It seems to me that if you were going after something it should have been an increase in the pension rather than an increase in the survivor benefits, because the survivor benefits, starting in 1968, will be, generally speaking, quite substantial.

Mr. EDWARDS: I am sure you understand Mr. Chatterton, that what we have had to incorporate in our brief in many instances are the mandates of our organization that have come up democratically through our convention structure. This has been a long standing mandate of the Civil Service Federation that there be a pension of 75 per cent for widows.

Mr. CHATTERTON: May I suggest that not many civil servants understand the Canada Pension Plan.

Mr. EDWARDS: I agree.

Mr. CHATTERTON: And I suggest that this recommendation might arise from that lack of understanding.

Mr. EDWARDS: No, I would say in answer to that that this recommendation arose long before the Canada Pension Plan was in existence. We have been trying to obtain it for a long period of time.

The Co-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Edwards.

We have one more witness to hear this evening, the Canadian Union of Postal Workers.

Mr. BELL (*Carleton*): Is there any chance of our going ahead with them now, Mr. Chairman?

The Co-CHAIRMAN (*Mr. Richard*): No, they are not here. They will be present this evening at 8 o'clock, and they will conclude the witnesses before this committee.

Mr. BELL (*Carleton*): What about the Professional Institute? Are they not presenting a brief?

The Co-CHAIRMAN (*Mr. Richard*): No.

Mr. McCLEAVE: Does Dr. Davidson wish to comment on this brief? Should we not ask him for his comments now?

The Co-CHAIRMAN (*Mr. Richard*): That is up to the members of the committee.

Mr. McCLEAVE: We have heard his comments on the others.

Mr. WALKER: I do not agree with that, but it may be that Dr. Davidson can deal with both briefs at the one time after we hear from the Canadian Union of Postal Workers.

The Co-CHAIRMAN (*Mr. Richard*): Yes, perhaps that would be better.

Mr. TARDIF: Yes, I think that that would be more proper.

Mr. McCLEAVE: I have no objection to that.

The Co-CHAIRMAN (*Mr. Richard*): Very well.

Mr. KNOWLES: I hope that Dr. Davidson does not feel badly because of the fact we have had a session without his putting anything on the record.

The Co-CHAIRMAN (*Mr. Richard*): The committee is adjourned until 8 o'clock.

The committee adjourned.

EVENING SITTING

The Co-CHAIRMAN (*Mr. Richard*): Order. We have with us this evening, Mr. W. Kay, National President of the Canadian Union of Postal Workers, who has a brief to submit to the committee.

Mr. W. Kay, National President, Canadian Union of Postal Workers: This brief is to the joint Chairmen, Mr. J. T. Richard, and the honourable Senator Maurice Bourget and members of the Joint Committee on the Public Service of Canada.

The Canadian Union of Postal Workers, representing 11,000 postal employees, has studied Bill C-193 and will concern itself mainly with the proposed amendments to the Public Service Superannuation Act. This presentation shall be brief because the time limit placed upon us did not allow for a clause by clause study and comment.

We begin from the position that the Public Service Superannuation plan must have no relation to the Canada Pension Plan. In saying this we point out

that we seek the following improvements in the Public Service Superannuation plan. These improvements are that contributions shall be at the rate of 5 per cent for both male and female contributors with present benefits remaining intact (2 per cent of salary times the number of years service, times average salary computed on the best three years of service), and voluntary retirement with full pension shall be at age of 55 or after 25 years of contributory service, whichever comes first; that benefits shall be 90 per cent of salary based upon the best three year average; and that the widow of a contributor, regardless of the size of her family, shall receive 100 per cent of the contributor's pension. In addition, in order that the buying power of the retired pensioner be protected, the Public Service Superannuation Act should contain the same built-in cost of living escalator clause as is provided in the statute covering the Canada Pension Plan. We believe there is no question that the credits accumulated in the Superannuation Account would sustain these added benefits.

Turning now to the Canada Pension Plan, we are firm in our conviction that the public servants who are covered by the Public Service Superannuation Act should have the privilege of voluntary "stacking" of the two plans. Those public employees who reject stacking would then automatically fall into the position of accepting integration.

For those who accept integration, we hold the following views on the mechanics of integration: (1) that integration should result in a simple division which allocates 1.8 per cent to the Canada Pension Plan and the balance to the Public Service Superannuation Plan; (2) that the result of integration shall not change the terms of withdrawal of contributions existing under the Public Service Superannuation Act and that any "locking-in" of contributions and benefits shall be voluntary. To deny these employees the possibility of withdrawing their contributions would be a breach of the frequent assurances that no federal civil servants covered by the Public Service Superannuation Act would lose any benefits, privileges, or suffer any detrimental change in premium costs as a result of integration of the Public Service Superannuation Act with the Canada Pension Plan. The privilege of opting out of any "lock-in" features should be allowed only once on the signature of the employee and should thereafter be irrevocable; likewise, the acceptance of lock-in provisions should be on the same terms.

Turning now to Part II of the Superannuation Act (Death Benefits), while Bill C-193 proceeds in the right direction, we contend that in addition to the present benefits, employees should be permitted, on a voluntary basis, to subscribe to twice the amount of their current salary up to a maximum of \$10,000 and that full coverage be maintained up to the age of 65.

We welcome the several amendments that clarify provisions of the Public Service Superannuation Act, and in particular we welcome the provision that protects the pension rights of the post office workers who were on strike in July-August, 1965.

Respectfully submitted on behalf of the Canadian Union of Postal Workers—and the brief is signed by the three national officers, W. Kay, National President; R. Otto, Executive Vice-President; J. E. J. G. Simard, General Secretary-Treasurer.

The Co-CHAIRMAN (*Mr. Richard*): Mr. Bell?

Mr. BELL (*Carleton*): Mr. Kay, it is quite obvious from the brief that your objectives are upwards, and I think it is entirely proper to increase the general coverage. Could you give the committee any indication of what you think the additional liability of the fund would be for the changes which you propose in paragraph 2? I note you say that you think credits accumulated would be sufficient to sustain these added benefits, but what would these added benefits, which I am certain are very attractive to all, cost annually, have you any idea?

Mr. KAY: I have not got the actual dollar value of what this would cost but from the figures we have on the accounting of the superannuation fund we find there is upwards of \$2 billion in the fund and the present expenditures from the fund do not exceed the interest calculated on the \$2 billion that is already in the fund. As a result, we find that the interest plus the contributions to the fund should sustain far and away better benefits than are enjoyed under the plan today.

Mr. BELL (*Carleton*): I am sure you would find members of this committee highly sympathetic to any point of view such as this, but I for one would like to have some specific indication of what the cost would be. For example, take the reduction of the rate to 5 per cent for male persons. What would be the loss in the fund by that reduction? How much would the fund lose annually if you cut to 5 per cent? I think it is a highly desirable objective but I would like to know what it is we are being asked to do. How many dollars?

Mr. KAY: I could not give you the exact dollar cost to the fund. It would mean from 6.5 per cent to 5 per cent. We based this 5 per cent, of course, on the growth of the present fund plus the fact that female employees have enjoyed the benefits of the fund at the 5 per cent level for many years.

It is our opinion that the fund is not there specifically to accumulate billions of dollars but to pay out benefits commensurate to the income that is collected.

Mr. BELL (*Carleton*): Do you think that there is a case for differentiation between male and female in the fund? This has been the principle for some time. I see you depart from that principle.

Mr. KAY: We do not see the reason for differentiating between male and female.

Mr. BELL (*Carleton*): You do not think that the widows' rights and the children's rights which generally apply to a male pension, have any real validity?

Mr. KAY: We believe that there should be survivor benefits, naturally.

Mr. BELL (*Carleton*): But do you think that the female should pay for the benefits of the male employees' survivors?

Mr. KAY: I believe, we believe, that the contributions should be the same.

Mr. BELL (*Carleton*): You believe in equality of the sexes?

Mr. KAY: Yes.

Mr. BELL (*Carleton*): Whatever the benefits may be?

Mr. KAY: Yes.

Mr. BELL (*Carleton*): I think that is a fair point of view. What about the situation on the reduction to the three-year average? Originally it was five years. It was taken up to ten years and brought down to six years. What would the additional cost to the treasury be, to a three-year average applied right across the service?

Mr. KAY: I could not give you the actual dollar value of difference in the average number of years. It would certainly have some effect on the plan but not such that the plan could not sustain.

Mr. BELL (*Carleton*): What of the reduction to voluntary retirement at age 55, or 25 years' of service? Do you know what the amount would be?

Mr. KAY: No I do not.

Mr. BELL (*Carleton*): Actually, Mr. Kay, what I am trying to do is help you out, if you will excuse me. I am all in your corner, in trying to improve the benefits. But I would like to know what the dollar value is and what the effect on the fund is. I am hoping you might be able to give us some figures which would enable the committee to come to a decision in favour of the representations, very valued representations, which you are making. You have not made the calculation?

Mr. KAY: No.

Mr. BELL (*Carleton*): What about the situation of the benefits being 90 per cent of the salary rather than the existing 2 per cent per annum?

Mr. KAY: Naturally that would have another added cost. We take the position that 15 or 20 years ago the Public Service Superannuation Plan was the most attractive pension plan in the country.

Mr. BELL (*Carleton*): This I agree entirely.

Mr. KAY: Now in 1966 with other pension plans having improvements brought about through the years, this makes the Public Service Superannuation Plan no longer as attractive as it used to be in comparison with other pension plans. We feel the Public Service Superannuation Plan should lead the field as an example to employers in the other sectors of the community, that the service plan should be emulated throughout the country.

Mr. BELL (*Carleton*): You have stated a principle with which I am sure every member of this committee agrees completely. We would like to get to precisely that situation and this is what I have been trying to do, to help you along to that situation. I am afraid there may be some of my colleagues here who are more dollar conscious than I am in relation to it and who may want to know what the cost may be of these things. This is what I was hoping that you would help me to convince them that the plan that you advance is a good one.

Mr. WALKER: On the second paragraph of your brief, on the size of surplus funds in the superannuation account, I thought you had a statement from an official stating that there was no actuarial surplus in the fund. Would you say I had been led down the garden path?

Mr. KAY: I am rather a layman when it comes to economics.

Mr. WALKER: So am I.

Mr. KAY: However, when you have a statement to the effect that there is upwards of \$2 billion in the fund, and when you find the expenses come to a figure not even as high as the interest, which is one per cent a quarter, it seems to be just a fund to build a huge surplus.

I suppose the economists had some reason for having the billions of dollars; but to the ordinary public servant the accumulation of billions of dollars seems to be a wrong purpose for establishing a superannuation plan.

Mr. WALKER: To an ordinary member of Parliament this seems to be the same thing, but when an investigation is made and when officials in charge of the fund state that, for the actuarial soundness of the plan, for the benefits that have to be paid many years ahead, there is in fact no surplus in terms of actuarial soundness in this plan for the future pay-outs, I am in much the same position as you are in. Have you had such a statement? Have you inquired?

Mr. KAY: Yes.

Mr. WALKER: What has been the reply?

Mr. KAY: I would not say that I have had a reply that for the actuarial soundness this fund must be maintained at this level, but I believe and our members believe that we are being led down the garden path and we are told that we must have these huge sums running into billions of dollars in order to maintain actuarial soundness.

Mr. CHATTERTON: Did your organization on your own consult an actuarial expert engaged by your organization to determine whether the statements of the Government officials are correct or not?

Mr. KAY: In past years we have had a representative on the committee that participated in superannuation fund discussions. It is not just recently.

Mr. CHATTERTON: Did you consult on your own, did you engage an actuary or professional person to advise you whether this was correct or not?

Mr. KAY: No.

Mr. CHATTERTON: In other words, you are guessing as we are?

Mr. KAY: We had a man on the committee, who participated in the discussions

Mr. CHATTERTON: Was he an actuary by profession?

Mr. KAY: No.

Mr. CHATTERTON: So you are speaking with very imperfect knowledge, as a layman?

Mr. KAY: Yes, I am.

Mr. ORANGE: In view of the numbers you have in your organization and your concern with regard to the benefits now extended by the superannuation plan for the civil servants, would it not be to your advantage to have employed professional consultants in the field of actuarial science to give you expert advice with regard to the pension plan or the superannuation fund as it now stands? In other words, as laymen on this committee, we can say such things as

being led down the garden path, but we all understand that experts are the people to give us the kind of advice we need. Would it not be to your advantage and that of your association if you had employed consultants to give you this kind of advice, so that you could speak with authority?

Mr. KAY: I agree that we erred in not retaining an expert in this field.

Mr. ORANGE: As a consultant. I am not suggesting you hire one full-time.

Mr. WALKER: My second question is in connection with blocking in of contributions. I have put the same question to other witnesses.

In connection with pension plans generally, what do you feel is the main purpose of a pension plan? Is it an enforced savings, or is it a pension to be paid at a specified time in the future for the purpose of supplying income of some description after the person has quit working?

Mr. KAY: The main purpose is the second part you stated. It is an income for the future when the person is no longer able to work.

Mr. WALKER: Thank you.

Mr. CHATTERTON: Mr. Chairman, the brief recommends that there be a choice for civil servants who want stacking the Canada Pension Plan on the Public Service superannuation plan or opting into the Canada Pension Plan. Are you suggesting, Mr. Kay, that this be allowed across Canada—that all people rather than just civil servants, have the choice of whether they want to join the Canada Pension Plan or not?

Mr. KAY: No.

Mr. CHATTERTON: Just for civil servants?

Mr. KAY: We believe everyone should participate in the Canada Pension Plan.

Mr. CHATTERTON: Reading from your brief, from the third paragraph—

...we are firm in our conviction that the Public Servants who are covered by the Public Service Superannuation Act should have the privilege of voluntary "stacking" of the two plans. Those public employees who reject stacking would then automatically fall into the position of accepting integration.

—do you mean by that that some civil servants should have the choice of integrating and those that do not exercise that option would have the option of rejecting the Canada Pension Plan?

Mr. KAY: No, what we propose is that the public servants be given the choice of participating fully in both the Public Service Superannuation plan for full benefits and also in the Canada Pension Plan for full benefits. Those who do not wish to participate fully in both would then go for integration, having the Public Service superannuation reduced by the amount payable by the Canada Pension Plan. In other words they would be fully integrated where we propose they will be given the choice of fully integrating, or stacking the Canada Pension Plan on the other.

Mr. CHATTERTON: Does not that mean in effect that you choose whether to contribute to the Canada Pension Plan or not?

Mr. KAY: We are not given a choice. We are going to contribute whether we wish to do so or not. We are not given a choice to integrate or not but the proposal is that we should have the choice.

Mr. WALKER: If I remember, you are suggesting I should be able to make a choice on whether to stack the plan or to integrate?

Mr. KAY: That's right.

Mr. CHATTERTON: It is still my view that you elect whether you want to join the Canada Pension Plan as such or have it integrate with the PSSA.

Mr. KAY: We maintain we should participate in the Canada Pension Plan but it should be stacked on top of the full benefits of the P.S.S.A.

Mr. HYMMEN: I have a related question. Would you not anticipate trouble with your members if one were allowed to stack and get a greater equity in the fund?

Mr. KAY: Every member would have the opportunity of stacking or integrating.

Mr. TARDIF: If the employees elect to stack their pensions rather than integrating, and when you remember that part of the pension contribution is made by the taxpayers of the City of Ottawa and by employers throughout the country, would you suggest the employer should pay their contribution to both the regular pension plan and the Canada Pension Plan?

Mr. KAY: Yes, I think so. The superannuation plan has been a part of the so-called fringe benefits a portion of which has been paid out of the public purse—the employer's portion. Now comes the Canada Pension Plan and this should be an added social legislation payable at the same time.

Mr. TARDIF: But then you as a group would be a privileged group. You would be getting double contributions from the Government. You would get the contributions under the Canada Pension Plan as well as the contributions under the P.S.S.A.

Mr. KAY: In the private sector of the economy in many cases there is stacking.

Mr. TARDIF: I know there is stacking in some private enterprises. Do you expect that the contributions normally paid by the employer should be paid if you stack?

Mr. KAY: Yes.

Mr. KNOWLES: First of all I would like to say to Mr. Kay that one of the things I was most pleased about the first day I went through Bill C-193 was the clause that protected the pensions of postal workers on strike last summer, and I am sure all members of the committee are glad to see the paragraph of appreciation in the brief with respect to that point. My colleague suggested you should put your point particularly to Mr. Benson. We invited him to be here tonight.

My second question relates to the 90 per cent figure in the second paragraph of your brief. Would you relate that for me to your support of the formula which you say should remain intact of 2 per cent per year for each year of service? How do you get 90 per cent at 2 per cent per year unless you work 45 years?

Mr. KAY: We were probably basing this 2 per cent on what it is at the present time. But going on further we suggest that the percentage should be raised.

Mr. KNOWLES: Have you any scheme as to how you would arrive or how many years you would take to get to 90 per cent?

Mr. KAY: We propose 25 years.

Mr. KNOWLES: You don't have an answer to my question directly?

Mr. KAY: We don't have the formula worked out, as to how it would be arrived at.

Mr. KNOWLES: Would it be only those who worked 25 years or more would get the 90 per cent?

Mr. KAY: Yes.

Mr. KNOWLES: You don't think it desirable to have some grading up to that?

Mr. KAY: With the full 25 years we propose there should be 90 per cent, and those with less service would have a lesser amount calculated on the percentage basis.

Mr. KNOWLES: May I ask about the 5 per cent contribution figure? If, by chance, consideration were given to a compromise on this point, somewhere between 5 and 6½ per cent—that is what male employees pay, would you favour that whatever the figure is should be the same for male and female?

Mr. KAY: Well, yes, I would say so.

Mr. KNOWLES: May I ask a couple of questions even though I may be repeating some that have been asked about stacking versus integration. You have made it clear that the position of your organization would be in favour of stacking. The bill before us goes all the way with integration. Do I take it that you are suggesting that in the circumstances a desirable compromise would be to have a choice, an individual choice? That is to say that each public servant should have the choice whether he wants to stack or integrate?

Mr. KAY: The reason we propose voluntary stacking or integration by each individual employee is because not everyone favours stacking. Stacking of the two pension plans makes a percentage of 6.5 per cent plus 1.8 per cent, which makes a very high contribution for a person earning a salary of \$3,600.

Mr. KNOWLES: Then I was wrong in saying this was a compromise between two positions. Each individual should have the choice?

Mr. KAY: Yes.

Mr. KNOWLES: Bearing in mind your statement with reference to locking in and a decision on this should be irrevocable, would that be the same as the stand with respect to the decision between stacking and integration—a decision once made by an individual would be irrevocable?

Mr. KAY: Yes.

Mr. KNOWLES: Have you looked at the reduction formula which is in Bill C-193, clause 9, the arrangements under which the Public Service superannua-

tion is reduced at age 65 by a certain figure in lieu of the Canada Pension Plan benefit? Do you have any comments to make on that for me?

Mr. KAY: The assurance is given to us that there will be no actual loss as a result of integration. We have accepted this up to the present time, that there will be no loss, and in good faith we say we are not too concerned, providing there is no loss of actual benefits as a result of integration. In many cases there is a slight gain and this, of course, is welcome.

Mr. KNOWLES: Some of us in this committee have been drawing attention to the fact that if a retired civil servant who retires prior to 65 goes back to work at some other job, private industry or what-have-you, his superannuation pension will be reduced at age 65, and if he is still working, and therefore not drawing the Canada Pension Plan benefit, his pension will be reduced and there will be no making up for it at that point.

Mr. KAY: Yes, we have not taken this into consideration as a real, serious matter up to the present time, no.

Mr. KNOWLES: In the fifth or sixth line of your second page you talk about loss of any benefits, privileges or changes.

Mr. KAY: Yes.

Mr. KNOWLES: Did you have anything in mind under the word "privileges"?

Mr. KAY: No, not specifically. We say we were assured there would be no losses, and we have accepted that, and yet we find that integration is going to affect in some ways the privileges in that we are now going to have a lock in of contributions which we did not have before the integration of the two plans, so this is, in our opinion, a breach of the assurances and of the privileges—and a withdrawing of the contributions was a privilege. Locking in the contributions is the denial of a privilege.

Mr. RICARD: Mr. Kay, is it a common practice in a pension plan to expect the widow of a contributor shall receive 100 per cent of his pension?

Mr. KAY: No, I would not know the answer to that.

Mr. RICARD: Could you mention a pension plan where they recognize such a principle?

Mr. KAY: No, I could not.

Mr. McCLEAVE: I have just one question. I wondered if in the proposals Mr. Kay and his group have drawn up for us they have borrowed from any other plan or used a parallel of any other plan. Is this based on the experience, say, of some large company?

Mr. KAY: No, the proposals we make here for the improvement of the plan are generally drawn from the membership's feelings expressed at conventions in discussing other pension plans, without being specifically able to name any at the present time. The delegates to conventions usually come up with some pretty good ideas in the comparison of plans in proposing the superannuation plan should lead the way in comparison to other plans.

Mr. McCLEAVE: So you could take any one item and you would find it in some other plan in Canada, is that the idea?

Mr. KAY: I could not name any at this time.

Mr. McCLEAVE: I know you cannot recall what somebody said at a convention, but would somebody presenting a proposal say, "Such-and-such is from so-and-so"?

Mr. KAY: Yes.

Mr. CHATTERTON: In reply to a question by Mr. Knowles, you said you had taken in good faith statements by the Government that no one will receive a reduction. Having now read Bill C-193, section 9(1d), which says that a civil servant who continues to work at age 65 on will have his Civil Service pension reduced at age 65 but not get the Canada Pension Plan, you did not say what your reaction was having now read Bill C-193.

Mr. KAY: I would say it is a reduction of the benefits and a breach of the promise made that there would be no reduction in benefits.

Mr. WALKER: No reduction in benefits as of when? There is a date in here, is there not?

Mr. KAY: Well, from the time we were assured by the Director of Superannuation and the previous assistant to the Minister of Finance that there would be no reduction in benefit.

Mr. WALKER: Period?

Mr. KAY: Yes, period. Now comes along a time when a person reaches 65 and his superannuation plan is reduced and he is not being paid an additional amount from the Canada Pension Plan because he continues employment elsewhere, so there is a reduction in the benefits.

Mr. HYMMEN: In Mr. Kay's submission there is some concern about this locking in provision. In the discussion this afternoon I thought it was pointed out that this would only take effect as of the effective date. I wonder if that point should be clarified.

Mr. KAY: The locking in provision is only to be effective as of January 1 for those employees entering the service after January 1.

Mr. KNOWLES: No, for those already in, but it does not apply to any moneys contributed prior to January 1, 1966.

Mr. HYMMEN: It was mentioned this afternoon that some groups were not familiar with the interpretation of this.

Mr. KAY: This is precisely one of the privileges we are being denied by the proposed integration of the two plans. Up until the present time we were allowed to withdraw contributions upon resignation. It has been a privilege all these years, and now by integration this privilege will be denied those with over 10 years' service at age 45 and up.

Mr. KNOWLES: With respect to contributions made in 1966 and thereafter.

Mr. KAY: That is right.

Mr. WALKER: And yet—and I am not trying to put you on the spot, because there are a lot of things in conflict here—and yet you do agree that the main purpose of a pension plan is to provide a pension when a man's earning power and working life is over.

Mr. KAY: Yes.

Mr. TARDIF: You say in clause 2 you would like the Government to approve retirement on full pension at age 55 or after 25 years of service, whichever comes first. And in the first paragraph you have a request that the death benefit be up to a maximum of \$10,000 and up to age 65. That means that if you retire at 55 you would expect the Government to keep on making the contribution they made to the death benefit up to a maximum of \$10,000 for the 10 years you are not working?

Mr. KAY: We are bringing in an ideal position here, probably, of \$10,000 to age 65. This could be subject to adjustment.

Mr. TARDIF: I realize that. I do not say the principle of asking for the maximum is wrong, because if you do not get the maximum you are likely to get a percentage. But, you are asking to be retired at the age of 55 or after 25 years of contributory service, whichever comes first, and you are asking that employees be permitted on a voluntary basis to subscribe to twice the amount of their current salary for ten years.

Mr. KAY: Assuming we do not get what we are after, which is retirement at the age of 55, and the retirement age stays as it is, then we think that the other should be extended to the age of 60.

Mr. TARDIF: You mentioned in your brief that if you do not get one you are hoping to get the other, or a percentage of one or the other.

Mr. CHATTERTON: With respect to that point, Mr. Kay, when you say:

—and voluntary retirement with full pension shall be at age 55 or after 25 years of contributory service, whichever comes first—

What do you mean by "full pension"? Suppose a person started at age 50 and worked to age 55. He would have five years' service. What would you consider to be his full pension?

Mr. KAY: Five years times the percentage times the average salary.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. TARDIF: That would be based on two per cent of your salary multiplied by the number of years of service; is that it?

The Co-CHAIRMAN (*Senator Bourget*): Not if you added it to the 90 per cent benefit. It would work out to about 3.5 per cent per year instead of 2 per cent.

The Co-CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you, Mr. Kay.

Mr. KAY: Thank you for the opportunity of appearing before you.

The Co-CHAIRMAN (*Mr. Richard*): There was a suggestion made this afternoon that we should recall Dr. Davidson to answer some questions which some members might want to put to him before—

Mr. WALKER: It was in connection with these last three briefs.

The Co-CHAIRMAN (*Mr. Richard*): Well, to answer whatever questions are needed.

The Co-CHAIRMAN (*Senator Bourget*): Mr. McCleave indicated he would like to ask some questions of Dr. Davidson.

Mr. McCLEAVE: Following the usual practice I was wondering if Dr. Davidson could comment on the requests made by the Civil Service Federation of Canada and by the last witness on behalf of the Canadian Union of Postal Workers.

Dr. DAVIDSON: Mr. Chairman, I am not in a position to comment on proposals which in their substance do not relate to the provisions of the bill as presented to the committee. The proposals in the brief of the Civil Service Federation this afternoon, and in the brief of the Canadian Union of Postal Workers this evening, clearly go beyond the scope of the amendments which the Government has proposed in the bill before the committee. It would be my responsibility to confine my remarks to the provisions that the Government has sponsored, and to endeavour to explain those to the committee, but it would certainly not be proper for me, in my judgment, nor would it be possible without a very considerable study of the details of the proposals that have been given to the committee this afternoon and evening, to offer any comment, or make any judgment of them in the time that is at my disposal.

It is quite clear, as I think all members of the committee will agree, that both the proposals of this afternoon and those of this evening have financial implications that go a very considerable distance indeed in the direction of adding to the liabilities that the Government of Canada would be assuming if Parliament were to pass legislation along the lines of either of these briefs. The best that I can say, therefore, is that I would think that a detailed examination would need to be made by competent advisers to the Government of the cost implications of these sets of proposals, and that a report on those cost implications should be before the committee before the committee would be in a position to come to any really considered judgment as to what it could accept of these proposals, and what it would have to set aside.

Mr. McCLEAVE: Dr. Davidson, is it possible—I know that we are running against inexorable time—to take any of these proposals in the briefs presented to the committee this afternoon and evening, and bring us a cost breakdown by tomorrow?

Dr. DAVIDSON: We could crank up the computer, if you like.

Mr. McCLEAVE: Is it humanly possible?

Dr. DAVIDSON: I think the answer is that it is not reasonably possible to do so. I can give you one brief example to illustrate what the implications would be of a proposal to set a retirement age of, let us say, 53 after 35 years of service as was suggested this afternoon, or 55 as was suggested this evening. The present retirement age is 65. The average life expectancy of an individual who retires at 65 is possibly something of the order of 12 years. Would I be correct. Mr. Clarke? It follows as night follows day that if you have a retirement age of 53 instead of 65 you will roughly double the life expectancy of the individual on pension, and you double the cost of that particular benefit because you are having to provide it for a 24 year period instead of a 12 year period. I am roughing out the approximations.

Mr. KNOWLES: Is that an actuarial pronouncement?

Dr. DAVIDSON: No, it is not, but if you want a quick answer before tomorrow, that is it.

Mr. KNOWLES: It does not follow that a person who is 52 has that number of years to live, does it?

Dr. DAVIDSON: You would have to work out the life expectancy, but it would cost some more. I could give you a better answer in 24 hours, and an even better one in 48 hours.

Mr. McCLEAVE: It would cost more because the person is drawing out and not putting in over those last ten years?

Dr. DAVIDSON: You can argue with Mr. Knowles about that.

Mr. ORANGE: I do not know whether Dr. Davidson is in a position to answer this question, but it appears to me that there is a common thread running through the three presentations—those of the Civil Service Commission, the Civil Service Federation of Canada and the Canadian Union of Postal Workers—and that is in respect of the locking in of the contributions after ten years' service and over 45 years of age. This may have been explained to the committee before, and if it was then I am prepared to let this question go. I wonder if Dr. Davidson is prepared to answer this question, if it has not already been answered: Why is there this particular provision?

Dr. DAVIDSON: I think something has been said on this before, but perhaps it would be useful to refer again to the fact that a number of provincial governments—at least three; those of Alberta, Ontario and Quebec—have enacted legislation at the provincial level which is designed to promote the portability of pensions as between private and other pension plans within those provincial jurisdictions. It is in conformity with the declared policies of the provincial governments in respect to pension plans generally within their jurisdictions that the federal Government has indicated by the provisions set out in this bill that it too subscribes to the principle of portability. It is prepared to have its superannuation plan support the principle of portability that is set out in the various provincial enactments. It is in conformity with that objective of the provincial governments that the federal Government has declared its willingness to redesign this provision so as to make portability of pension between the federal employees' schemes and the other schemes that are covered by provincial law.

Now, you cannot talk about portability if you do not talk about locking in the contributions of the employer and the employee so that you have something that is portable. It is a logical consequence of the decision of the federal Government to co-operate with the provinces in the promotion of portability of pensions that the locking in provisions should appear in this legislation.

I should point out, however, since Mr. Knowles or someone else did mention it, that past contributions up to January 1, 1966, would not be locked in, but contributions beginning in 1966 and in future years would be locked in. I would point out that that is not what the bill provides. The bill provides that locking in will begin in respect of persons with more than 10 years of service after 45 years of age as from a date that the Governor in Council shall decide, and that date has not obviously as of now been determined by the Governor in Council because the legislation is not passed, and there is nothing in the bill that specifies that the date which the Governor in Council will set for the

bringing into force of this locking in provision will be in the year 1966, or in any other year for that matter.

Mr. KNOWLES: Could it be earlier?

Dr. DAVIDSON: That is for the Governor in Council to decide. I think it is difficult to put in locking in provisions that are not provided.

Mr. KNOWLES: Did I get this notion out of the air, or did somebody give it to us?

Dr. DAVIDSON: I think members of the committee have assumed in the light of the discussion this morning and in the light of discussion yesterday, when we had some exchanges as to whether or not it was the federal Government's intention to bring in at this session its own other legislation—I think it has been assumed from that that there was a fixed date, January 1, 1966 from which these locking in provisions would take effect. But if Mr. Clark will confirm for me, I think I am correct in stating that according to page 16 of the bill there is no date mentioned as to the commencement of the locking in provisions. On line 37 of page 16 it refers to the locking in in respect of any period of pensionable service after such day as may be fixed by the Governor in Council.

Mr. ORANGE: In other words, the way this provision goes it would not really take effect until say 1976.

Dr. DAVIDSON: I am 45 years of age and I have more than 10 years service. If the date after this law was proclaimed the Governor in Council were to state that to be the day, I could withdraw all my contributions, but I could not withdraw a cent of my future contributions after that date.

Mr. KNOWLES: As you said, you could not lock in contributions that had already been withdrawn. You could hardly imagine a locking in provision of those which had not been withdrawn.

Dr. DAVIDSON: I quite agree.

Mr. HYMMEN: I have a related question. Also this afternoon there was some reference to provincial legislation with regard to voluntary withdrawal of funds.

Dr. DAVIDSON: Perhaps Mr. Clark, who knows the details of these laws respecting portable pensions at the provincial level could elaborate on that, Mr. Hymmen.

Mr. HYMMEN: And on the 25 per cent voluntary withdrawal.

Mr. CLARK: Mr. Chairman, the three provincial acts to which reference has been made do permit an employer to include this 25 per cent lump sum provision to which reference was made. On inquiring, particularly with the Ontario Pension Commission, we find that little use appears to have been made of this provision. In fact, this provision was not included, for example, in the legislation which inserted the locking in provision for the plan for civil servants in Ontario, or teachers in Ontario, and the same applies in the case of the civil servants in Quebec. I have not seen any legislation in this regard so far as the civil servants in Alberta are concerned.

I should point out that this is a particularly difficult provision to insert in a complicated plan of this nature. It is relatively easy to insert it in a plain

underwritten by an insurance company where there is the very direct individual relationship between contributions and benefits, but in a plan of this nature that is not the case.

This point has been discussed in our advisory committee, and I must advise that our actuarial advisors on that committee have certainly recommended most strongly against trying to work out a provision of this nature.

Mr. KNOWLES: May I ask a question about another subject, unless someone wants to pursue that.

In the brief this afternoon from the Civil Service Federation, Dr. Davidson, there was a paragraph on reciprocal transfer agreements with which some concern was expressed. I do not mean that I share it, but the right of the minister to rely on the word "may" as to allow them to be transferred to another entity, raised a question. Now, I see you are passing the ball to Mr. Clark.

Mr. CLARK: Mr. Knowles, this provision is one that has been in the act since 1953. It is the first time that any question has been drawn to the provision. It took us rather by surprise, because there have been no complaints in connection with the twenty agreements that were listed in the report handed to the committee yesterday. You have had an opportunity to study, I think at least briefly, the Laval agreement, and the sort of possibilities which concerned the federation this afternoon just have not arisen in actual practice.

I might say that where you have a plan, again as complicated as this one, where varying rates of contributions are paid and payments are made on the instalment basis, the payments may not be complete when the man leaves. The administration has to have power to determine; the Act cannot say exactly what should be paid.

Mr. KNOWLES: Because of the variations in the plan, some adjustment is necessary?

Mr. CLARK: That is right; and because of the so-called single and double rate contributions. There is also one relatively rare instance now of free service where the new employer would be paid the whole amount although the employee has not contributed anything. It is this series of factors which enter into the choice of the wording here. Again the reference to the "interest as the minister determines", that is really the calculation of the interest at the rate that has been credited to the account over the years and an estimated allocation to that individual, because there are not individual accounts where an interest credit is set up.

Mr. KNOWLES: I have another question, again on another subject. The other subject I would like to ask a question about is with respect to the death benefit legislation. Dr. Davidson said he did not want to touch on matters that were not in the bill, but the death benefit changes are in the bill. I think it is interesting, I think encouraging, to know the approval that is now being given to this legislation. I remember the difficulty we faced when we brought it in. Could any of the improvements suggested today by the federation, or the postal workers tonight, be made at this same time? Could they be made without increasing the premium, or if not, what kind of premium should be necessary?

Dr. DAVIDSON: Are you speaking now about the death benefit provisions, Mr. Knowles?

Mr. KNOWLES: Yes. One general effect is to keep them in a little longer, another is to increase the amount produced; and the third is to increase the floor.

Dr. DAVIDSON: None of these changes can be made without affecting the premium cost to the contributor.

Mr. KNOWLES: The changes that are being made will cost contributors more, will they not? The rate per thousand remains the same but the protection will cost more?

Dr. DAVIDSON: Yes, because the insurance coverages are such. The contribution rate of the improved plan as it is contained in the bill before the committee is unchanged in the case of the Public Service contributors. It is cut in half so far as armed forces contributors are concerned, from 10 cents for \$250 worth of insurance to 5 cents. To take the specific suggestion of the Civil Service Federation, that the minimum benefit that remains after reducing term insurance has run its course should be set at \$1,000 instead of \$500, the federation brief says this should be provided from any surplus under the full benefit portion of the superannuation plan without any increase in the basis premium of the death benefit insurance.

This is just impossible in terms of the balance of the fund as it stands, because the fund, while it does have a very small contingency reserve, does not have a reserve that would begin to meet the added cost of this extra \$500 worth of minimum insurance without affecting the contribution rate.

Mr. KNOWLES: In other words, these things can be done but they would raise the premium rate?

Dr. DAVIDSON: They would either raise the premium rate or they would increase the amount that the Government has to contribute by way of its contributions.

Mr. KNOWLES: But you are noticing the more favourable attitude to this kind of legislation that was the case?

Dr. DAVIDSON: We have not only noticed it but a provision that is in the bill now is the evident response to that evidence of a more favourable attitude on the part of the Public Service to a death benefit.

Mr. KNOWLES: I seem to be talking to you as though you were the Government. I know you are not.

Dr. DAVIDSON: It is one of the few things I am glad of not being.

Mr. LACHANCE: On the same subject, in other words, the only purpose of the bill is the integrating of the pension plan with the Superannuation Act?

Dr. DAVIDSON: That and increasing portability are the two prime purposes. Then there are the death benefit changes and we included some purely incidental changes of a procedural nature. It was not the Government's intention at this point in time, to present a comprehensive revision of the Public Service superannuation legislation which would require a whole series of completely new actuarial calculations.

Mr. KEAYS: It seems to me that this brief of the federation submitted to say is just loaded with fears. It seems they fear the intent of this bill. There was one fear expressed in line 7 of page 2 which I think Dr. Davidson replied to one a question from Mr. Orange. There are also two other fears that seemed expressed in the last sentence on page 2 regarding the impact of the integrated plan on the superannuation account, that these are imaginary rather than real. I wonder would Dr. Davidson comment on that?

Dr. DAVIDSON: I perhaps can best comment by drawing your attention to a sentence in the statement that Mr. Benson gave in the House on second reading of this bill when he pointed out that the provision of this bill, respecting integration, did not have any effect on the position of persons who were already retired and were drawing benefits under the Public Service Superannuation Act.

Mr. KEAYS: There is another one on page 4, the last sentence, a misunderstanding of the intent of this legislation. Most employees seem to be of the opinion that the purpose in this bill will be retroactively applied to present contributors.

Dr. DAVIDSON: Again, Mr. Keays, and I gather that you are interested in having this statement on the record it is correct to state, as I have already stated in my testimony this evening, that the proposals in this bill affecting the locking in of contributions have no retroactive effect. As I have already explained, they will not take effect in respect of any contributions, even future contributions, until such time as the Governor in Council fixes a day by proclamation for the commencement of the locking in feature. From that day forward, the locking in will apply to contributions made after that date, but will not apply—I would be certain—to contributions that had been made prior to that date.

Mr. KEAYS: Thank you very much. I have been putting this forward merely so that those who read the evidence will have a clear picture of the situation.

Mr. CHATTERTON: This question does not relate to the brief received today, but goes back to section 40, whereby the armed forces computing the length of service will include the time of war and so on, in the forces raised by Her Majesty in Canada.

I believe that in the Public Service Superannuation Act a civil servant can buy back his wartime service even if he served his time in the allied forces. Why was it in this case restricted to forces raised in Canada?

Mr. CLARK: This relates to what I might call qualifying service. In other words, a former member, say, of the British forces, who subsequently joins the Canadian forces, can elect under other provisions in the Canadian Forces Superannuation Act to count that service for pension purposes, once he qualifies for a pension.

There is a minimum of ten years service in the Canadian forces but once he has that and depending on the type of retirement, he can count that service.

Mr. CHATTERTON: Including service in the allied forces?

Mr. CLARK: In the Commonwealth allied forces. I do not think it goes beyond that into, say, the Free French or the Polish forces.

Mr. CHATTERTON: The same as in the Public Service Superannuation Act?

Mr. CLARK: The Public Service Superannuation Act does extend to the Free French and the other Allied forces.

Mr. CHATTERTON: This is merely for the purpose of qualification?

Mr. CLARK: Yes.

Mr. McCLEAVE: In appendix A, (see appendix "H") the Civil Service Federation brief expresses its request for return of contributions with interest, that two Crown corporations now carry out that practice—Polymer and the Canadian National Railways.

Is the Public Service Superannuation fund based on the same actuarial principles as those of those two Crown corporations and, if so, why is it not possible to adopt that policy in relation to the fund?

Dr. DAVIDSON: I would have to raise some questions, as to what you specifically mean, Mr. McCleave, by actuarial principles. I think it would be correct to say that both of the plans are based upon the same broad actuarial principles. But elements that go into the costing of the two schemes are entirely different.

It is possible to have one fund which is based on actuarial principles, which contains a provision for return of contributions without interest, and the actuarial calculations are made on that assumption. It is possible to have another fund which is based upon the same actuarial principles, but one of the elements that goes into the making of the actuarial calculations is the assumption that, in this latter case, contributions are returned with interest.

Mr. McCLEAVE: That I can see, and that is just a general illustration. But do you know what the setup is of Polymer Corporation and the CNR funds for example, and how they compare with those of the Public Service?

Dr. DAVIDSON: I could not make a comparison of those schemes. I can only say that it is completely clear that if a feature were to be added to the Public Service Superannuation Act which involved the return of contributions with interest, this could not but add to the cost of the fund and would have its impact on the contributions level required to maintain the present benefits of the fund.

Mr. McCLEAVE: It could be a point, could it not, for the experts in the department to examine the fund side by side?

Dr. DAVIDSON: I am advised by Mr. Clark that this question of providing return of contributions with interest has been looked at on previous occasions by the advisory committee on superannuation and it has not looked with favour on including this feature in the legislation. It has not been looked at for a number of years, and it could be looked at again, but I have no doubt the arithmetic will be the same, but whether the viewpoint will be the same or not, I cannot predict.

Mr. KEAYS: Would it be proper to say that the actuarial soundness of the two different funds is based on the contributions as made by the employee and the contributions which may be paid by the employer—

Dr. DAVIDSON: That is correct, Mr. Keays. Obviously the arithmetical equation is different for each individual fund. It may be necessary if interest is paid either to have a comparatively high premium rate and include provisions

for the interest payments or to have somewhat less generous benefits so that the benefit goes out as some form of interest on return of contributions rather than in the form of benefits.

Mr. KEAYS: In other words you are no Santa Claus.

Dr. DAVIDSON: I used to work with Dr. Brock Chisholm in Health and Welfare, and despite his views I still believe in Santa Claus.

The Co-CHAIRMAN (*Mr. Richard*): Any other questions? Thank you very much, Dr. Davidson.

Now, ladies and gentlemen, I am in your hands. Since time is short and tomorrow is a short day I was wondering if we could go ahead and study this bill clause by clause, starting this evening and going ahead as far as we can. Tomorrow morning will be taken up with caucuses, at least for some of the members. We could perhaps do some of the clauses now.

Mr. McCLEAVE: Why don't we take out the clauses on which there are amendments, suggestions or comments? Then those who wish to deal with those and have their suggestions, amendments or comments prepared and give them to the Chairman at nine o'clock tomorrow morning.

The Co-CHAIRMAN (*Mr. Richard*): That suggestion is quite acceptable to me if it is acceptable to members of the committee.

Mr. McCLEAVE: I think Mr. Chatterton, Mr. Bell and myself have six clauses we want to deal with—only six.

The Co-CHAIRMAN (*Mr. Richard*): Can you give us the numbers?

Mr. McCLEAVE: Clause No. 9 on page 12, clause 40 on page 37. Then there are clauses 32, 44, 59 and 70.

The Co-CHAIRMAN (*Mr. Richard*): Then we could proceed with the other clauses right away?

Mr. McCLEAVE: I think clause 40 should also be held out.

Mr. KNOWLES: Would you also hold out clause 53, and clause 89.

The Co-CHAIRMAN (*Mr. Richard*): The numbers I have here of clauses to be held out now are 9, 32, 40, 44, 53, 59, 70 and 89, and of course clause 1. Shall all the other clauses carry?

Hon. MEMBERS: Carried.

The Co-CHAIRMAN (*Mr. Richard*): It is understood that those who have suggestions, amendments or comments to make should have them ready tomorrow morning at 9.30. Is it agreed that at 9.30 tomorrow morning everyone will be able to proceed with their amendments?

Hon. MEMBERS: Agreed.

The committee adjourned.

APPENDIX "H"

The Civil Service Federation wishes to draw to this Committee's attention a discrepancy between practices in the private sector and the Federal Public Service with respect to the Public Service Superannuation Act; specifically the fact that refunds of employees' contributions to the Public Service Superannuation Plan do not bear interest, whereas in the private sector, the practice of paying such interest is the rule rather than the exception.

That Federal Government employees' contributions accrue interest is indicated in the "Report on the Administration of the Public Service Superannuation Act for the Fiscal Year Ended March 31, 1965". On page 3 it is stated that 78.7 million dollars interest was earned by the Superannuation Account. Further, on the same page of this report, it is stated that the employees' contributions to the Retirement Fund earn interest at the rate of 4 per cent per annum and, for the fiscal year recorded in the Report, an amount of \$183,000 was credited to the Fund.

If the Superannuation Account and the Retirement Fund are earning interest, this interest is accrued in part, if not in total, on employees' money. Therefore, it stands to reason that that part of the interest earned by employees' contributions should be assigned to the employees' share of the Account and Fund. It is appreciated that the interest aids in building up such individual employee's pension amount, however, it is not appreciated that an employee who decides to leave the service should suffer the loss of interest earned by his money during the period it was held by the Government.

In the private sector there is ample precedent in pension plan administration for the return of employees' contributions with interest—usually compounded from year to year.

Advance data provided by the Pay Research Bureau on its January 1, 1966 Employee Benefits Survey reveals the following:

PART A

SAMPLE

	Treasury Board	Staff Associations	Combined ⁽¹⁾
1. Number of Companies			
Office	146	166	274
Non-Office	146	166	274
2. Total Co.'s Giving Refunds			
Office	102	142	211
Non-Office	87	118	172
3. Co.'s Refunding with Interest			
Office	54	76	115
Non-Office	42	64	92
4. Co.'s Refunding without Interest			
Office	9	22	24
Non-Office	10	13	16
5. No details re interest			
Office	39	44	72
Non-Office	35	41	64

(1) Totals of Treasury Board and Staff Association samples do not equal the total in the Combined Sample because some companies are represented in both samples.

PART B—Percentage Analysis of Part A

SAMPLE

	Treasury Board	Staff Associations	Combined
Item 3 as % of Item 2 (Part A)			
Office	52.9	53.5	54.5
Non-Office	48.3	54.2	53.5
Item 4 as % of Item 2 (Part A)			
Office	8.8	15.5	11.4
Non-Office	11.5	11.0	9.3
Item 5 as % of Item 2 (Part A)			
Office	38.3	31.0	34.1
Non-Office	40.2	34.8	37.2

Item 3 above is the significant item in Part A. The Civil Service Federation contends that further analysis of Item 5 (part A) would also add to the weight given in Item 3 (Part A) to the practice of refunding employees' contributions with interest. Subsequently we will show this is a pattern in the private sector and the Civil Service Federation believes that many of the companies which constitute Item 5 do follow this practice.

As the PRB data is not yet officially released we have sought other sources which also lend strength to our position. These sources and their supporting evidence are as follows:

1. *A Study of Canadian Pension Plans*, 2nd Edition, Fall 1961, National Trust Company.
72 of 120 contributory plans indicated return of contributions with interest.
2. *Teacher Retirement Plans in Canada*, April 1963 and subsequent *Supplement*, dated January 1964.
Refunds with interest are provided to teachers in the following provinces:
—British Columbia—3%
—Alberta —3%
—Saskatchewan —less than 5 years service—Nil
5-10 years service—2% compounded annually
10 or more years service—3% compounded annually
—Ontario —15 years service (or 5 or more years after age 55)—
4% interest per annum.
3. Hospitals of Ontario Pension Plan:—handbook—(page 8)
—“refund of your contributions with 3% compound interest”.
4. Pension plans in Ontario—Statistics 1963—page 20 (extract).

	Number of Plans	%	
(a) Refund of employee contributions ⁽¹⁾	2,333	31.2	(This study covered 7,476 pension plans filed under the “Pension Benefits Act of Ontario;” — effective date: September 1, 1963.)
(b) Refund of employer and employee contributions	3,262	43.6	
(c) Refund of employee contributions and vested portion of employer contributions	567	7.6	

(1) No distinction is made between cases in which the refund of contributions is with interest or without interest.

From the above table it can be seen that, although cases where interest on employees' contributions are not defined, another parallel clearly does exist, in that 3,262 plans (or 43.6%), grant a refund of both employer and employee contributions and a further 567 plans (7.6%) grant a refund of employee contributions plus a vested portion of the employer's contributions. This represents a total of 3,829 or 51.2% of the total survey. If, from the example of the previously described PRB data (p. 2) and PRB data shown below, No. 6, we read into Item (a) a distinct possibility that at least 50% of the 2,333 plans which refund employees' contributions also grant interest on these contributions, we realize that over 66% of the registered Ontario pension plans provide a return to the employee of an amount greater than that which he originally contributed—or in other words, a premium for the use of capital.

5. Public Service Superannuation Amendment Act (1964) Bill 129.

Ontario—in effect April 1, 1964. Section 17 of the act provides for return of contributions *with interest* if the law does not require they be “locked-in”.

6. Pay Research Bureau—*Employee Benefits in Industry*, January 1, 1961, page 27. (An analysis of data provided in this report shows that a refund of contributions with interest was a significant feature, even in 1961). Below we indicate the relevant data:

CONTRIBUTORY PENSION PLANS

Office—88 of 106 surveyed companies had contributory pension plans (83%)

Non-Office—71 of 94 surveyed companies had contributory pension plans (75.5%)

(a) of the above: the following provided interest with a return of contributions:

Office—53 or 50% of the plans, affecting 68,296 employees (37.6%)

Non-Office—42 or 44.7% of the plans, affecting 78,982 employees (34.4%)

Total—95 or 60% of the plans, affecting 147,278 employees (53.0%)

7. Remuneration Survey of Ontario Civil Servants—W. A. Mercer Limited—October 1960. This study showed that as early as 1960 pension plans provided interest on employees' contributions when withdrawn. Examples are given below:

Provincial and Municipal Governments

(a) *Province of N.B.*: 1-5 years service—refund of contributions only.

5-10 years —refund of contributions and interest.

(b) *Province of Saskatchewan*: refund of contributions with interest.

(c) *Province of Alberta*: refund of contributions with interest.

(d) *Province of B.C.*: refund of contributions with interest.

(e) *Munic. of Metro. Toronto*: (under age 35)—refund of contributions with interest.—(Over age 35)—“Cash refund or deferred annuity based on own contributions plus part or all of Employer Future Service contributions and all Past Service contributions transferred to Plan”.

Other Organizations

(a) *Polymer Corp'n*—refund of contributions with interest @ 3%.

(b) *Ontario Hydro*—refund of contributions with interest @ 3%.

(c) *CNR*—refund of contributions with interest.

(d) *University of Toronto*—refund of contributions with interest @ $2\frac{1}{2}\%$.

The principle that the Public Service employee's contributions to the Public Service Superannuation Account do in fact earn interest is also accepted. The Treasury Manual of Financial Authorities, Volume II, Section XXII, page 85: Clause 12.2.5, under the heading, "Capitalized Value of Annuity or Annual Allowance"—subclause (b), refers to disability payments in the following terms: "Where the contributor ceased to be employed by reason of disability:—in accordance with the mortality basis set out in The Actuarial Report on the Superannuation Account, 1947, with interest at the rate of 4% per annum."

Throughout the Public Service Superannuation Act a contributor who is required to make contributions for prior service or return contributions paid on previous separations must make these payments with interest. In simple equity it seems reasonable that a contributor should be granted interest on the return of his contribution whenever there is no additional financial benefit paid to him from the employer's contribution to the plan.

As a function of being a modern employer, the Government must have a pension plan and must participate in it; however, since the employee does not have a choice as to his participation, (a condition of employment), then if he chooses to separate, he should, in justice, receive back the proper value of his personal capital which has been tied up in the pension plan—i.e.—contributions plus interest. In the previous pages we have seen enough examples to recommend that the rate of interest should be at least 4 per cent, compounded annually.

As a further indication that 4 per cent interest is appropriate to-day, the Treasury Manual, page 127—clause 20.2 "Contributors Accounts", referring to the Retirement Fund, states:

"...and interest paid by the government. The interest is calculated at 4 per cent per annum..."

Again, on page 132 of the same manual, with reference to the Civil Service Retirement Act, clause 3.1 "Accounts", we note that 4 per cent is again the stipulated rate of annual interest.

As additional weight to our position that interest should be refunded to employees who withdraw from the Superannuation Account, we see in statements describing both the Retirement Fund and Civil Service Retirement Act, authority to provide interest with contribution refunds, and thereby a precedent within the Federal Public Service itself, (References—Treasury Manual, Part XXII, page 129, clause 23.1; page 132A, clause 34.1)

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The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

PROCEEDINGS OF
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 5

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

THURSDAY, JUNE 22, 1966

WITNESSES:

From the Treasury Board: Hon. E. J. Benson, Minister of National Revenue, President of the Treasury Board; Dr. G. F. Davidson, Secretary. *From the Department of Finance:* Mr. H. D. Clark, Director of Pensions and Social Insurance Division.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mrs. Quart,
Mr. Roebuck—11.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Caron,
Mr. Chatterton,
Mr. Crossman,
Mr. Émard,
¹Mr. Émard,
Mr. Fairweather,
Mr. Faulkner,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,

Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Orange,
Mr. Ricard,
²Mr. Rinfret,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—23.

¹Replaced by Mr. Langlois (*Chicoutimi*).

²Replaced by Mr. Simard.

(Quorum 10)

Edward Thomas,
Clerk of the Committee.

TUESDAY, June 21, 1966.

Ordered,—That the names of Messrs. Simard and Langlois (*Chicoutimi*) be substituted for those of Messrs. Rinfret and Émard on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

REPORT TO THE HOUSE OF COMMONS

WEDNESDAY, June 22, 1966.

THIRD REPORT

Your Committee has considered Bill C-193, An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provided Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

Your Committee has agreed to report the said Bill with the following amendment:

Amend the French version of the said Bill by striking out the words "service public" and substituting therefor the words "fonction publique" in the Title and wherever these two words appear in the said French version of the said Bill.

A copy of the relevant Minutes of Proceedings and Evidence, relating to this Bill, is appended.

Respectfully submitted,

JEAN-T. RICHARD,
Joint Chairman.

(Presented Wednesday, June 22, 1966)

MINUTES OF PROCEEDINGS

WEDNESDAY, June 22, 1966.

(8)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.36 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart.

Representing the House of Commons: Mrs. Wadds and Messrs. Caron, Chatterton, Crossman, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Langlois (*Chicoutimi*), Leboe, McCleave, Munro, Orange, Ricard, Richard, Simard, Walker (19).

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; and Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Committee was assured by the Hon. E. J. Benson that clause 19 of Bill C-193 would be amended in proper legal form to provide for appeal.

Clauses 32, 44, 59 and 70 were then carried.

A motion by Mr. Chatterton, seconded by Mr. McCleave, to delete sub-section 9(1) (1d) was negatived on division.

Clauses 9, 40, 53 and 89 carried.

Clause 1, the Title, and the Bill carried.

The Committee agreed that the Joint Chairmen report the Bill back to the Senate and the House of Commons without amendment.

On a motion by Mr. Caron, seconded by Mr. Faulkner, the Committee agreed to the substitution of the correct terminology "fonction publique" in the Title and wherever these two words appear in the French version of the said Bill, for the words "service public".

On a motion of Mr. McCleave, seconded by Mr. Walker,

Resolved,—That permission be obtained to reduce the quorum of this Special Joint Committee to (10) members provided that both Houses are represented, and to sit while the Senate and House of Commons are sitting.

The Joint Chairmen announced the addition of the Hon. Senator Deschatelets and Messrs. Orange, Simard and Walker to the Subcommittee on Agenda and Procedure.

The meeting was adjourned at 10.35 a.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

WEDNESDAY, June 22, 1966.

The Co-CHAIRMAN (*Mr. Richard*): We have a quorum. Last night some clauses of this bill were left over for discussion this morning. Before we proceed I understand the Minister of National Revenue would like to make a few remarks.

Hon. E. J. Benson, Minister of National Revenue: As I indicated when I last appeared before the committee, we undertook to look into the question of decisions being made by the Minister of Finance or the Minister of National Defence without appeal to the Treasury Board in cases which had previously been decided by that Board under the previous legislation. We have looked into the matter very carefully and have come to the conclusion that the position can best be served by putting an amendment under section 19, the regulation section, which will allow the Governor in Council to make regulations to cover all the various items previously decided by Treasury Board and now decided by a minister of the Crown. If the committee would agree to the clauses involved I shall undertake to have drafted in proper legal form an amendment to clause 19 so that the provision for appeal is made.

Mr. CHATTERTON: Is it not clause 30?

Hon. Mr. BENSON: It was the old clause 30, but clause 19 in the new act.

Mr. McCLEAVE: We have requested that four clauses be held out to provide for this, and what the minister says is quite satisfactory. These clauses are 32, 44, 59 and 70.

The Co-CHAIRMAN (*Mr. Richard*): Shall clauses 32, 44, 59 and 70 carry?

Hon. MEMBERS: Carried.

The Co-CHAIRMAN (*Mr. Richard*): Then there was clause 9, which was also left over. That is to be found at page 11.

Mr. CHATTERTON: I would like to move that clause 9(1) (1d) be deleted.

Mr. McCLEAVE: I second the motion.

The Co-CHAIRMAN (*Mr. Richard*): It has been moved by Mr. Chatterton, seconded by Mr. McCleave, that clause 9(1) (1d) be deleted. Are there any remarks on this?

Mr. CHATTERTON: 9 (1) (1a) guarantees that there will be no reduction to the combined pension after integration, and 9 (1) (1d) agrees that is the case except in the cases of those civil servants who retired before 65. In those cases where a civil servant is working at 65 and his P.S.S.A. benefit is adjusted and reduced then he still does not get his Canada Pension Plan until such time as he stops working. The effect of 9 (1) (1d) would then in certain cases actually reduce the man's pension for some years, possibly up to five years.

(Translation)

The JOINT-CHAIRMAN (*Senator Bourget*): Have those of you who are French speaking understood the purport of the amendment to be made to clause 9 (1) (1d)?

Mr. CARON: I would like to have the French explanation.

(English)

The Co-CHAIRMAN (*Mr. Richard*): Mr. Chatterton, would you mind repeating what you have said, because there was a little discussion between members? If you would repeat the object of your amendment, please, for deleting clause 9(1)(1d)?

Mr. CHATTERTON: Yes, Mr. Chairman. Clause 9(1)(1a) provides that there is a guarantee that no person's pension, by virtue of integration, will be reduced.

Mr. KNOWLES: I think it is clause 9(1)(1c), Mr. Chatterton.

Mr. CHATTERTON: Yes, that is the guarantee. Clause 9(1)(1d) says that will not apply except in those cases where the retiree or annuitant is working at age 65. In other words, it says that at age 65 there will be an automatic adjustment of his Civil Service pension. If he is working and suffering a reduction to his Canada Pension Plan by virtue of working, then he will not be receiving his Canada Pension Plan benefit, or will be receiving a reduced amount, so, in effect, for a period of five years it is possible that some Civil Service annuitants who are working will have their pensions reduced.

The JOINT-CHAIRMAN (*Senator Bourget*): In simple words, Mr. Chatterton, it means you do not want any reduction in the Canada Pension Plan.

(Translation)

Mr. CARON: Mr. Chairman, could we have Dr. Davidson's explanation on that point?

(English)

Dr. George F. Davidson, Secretary of the Treasury Board: Mr. Chairman, I have explained the full situation before and it would be presumptuous of me to start giving members of the committee advice as to this proposal now. I can only reiterate that this provision was inserted in the bill following a recommendation to this effect by the Advisory Committee on Superannuation, which is an official body set up in accordance with the Public Service Superannuation Act, which has on it 12 members nominated by the National Joint Council, equally representative of the staff side organizations and the official side. It was the view of the members of the Advisory Committee that the Public Service Superannuation Act should provide the same treatment to a retiring civil servant, regardless of whether he retired at age 65 in full retirement or whether he accepted employment outside of the Government.

The effect of this amendment, stated in the most factual terms I am capable of stating it in, is to provide additional benefit out of the Public Service Superannuation Fund to the retired civil servant who takes other employment outside of the Government service upon his retirement; and there is, of course,

no compensating financial contribution made to the superannuation fund that would fund that additional benefit that would be paid to the person who continues to work outside the Government after retirement, as distinct from a person who retires completely on retiring at age 65.

Senator O'LEARY (*Antigonish-Guysborough*): I do not understand the term "additional benefit."

Dr. DAVIDSON: The provision contained in the bill, Senator O'Leary, is to the effect that a civil servant, on reaching age 65, has his Public Service superannuation benefit reduced because of the amount of benefit that he is entitled to receive under the Canada Pension Plan on retirement. The purpose of clause 9(1)(1d), which is the subject of the amendment, is to provide that even if that retired civil servant goes to work, and in consequence his Canada Pension Plan benefit is suspended rather than being paid to him, that he shall continue to be subject to the reduction of his superannuation benefit from age 65 on.

By eliminating clause 9(1)(1d) you would provide that the Public Service Superannuation Fund would have to pick up the amount of the Canada Pension Plan benefit that is suspended during the period of his employment—that is, the extra benefit that he would receive through the elimination of (1d)—and that would be a charge on the Public Service Superannuation Fund for which no special contribution to the fund would have been received.

Mr. KNOWLES: Dr. Davidson has put it in one way it can be put—namely, that the superannuation fund is to be called upon to pick up the Canada Pension Plan benefit this employee would not have got. I think it would be equally fair to say that the superannuation fund is being called upon to continue the superannuation pension that the retired employee was getting up to age 65.

This is a subject we have discussed and debated at great length in the last two or three days, and obviously we do not need to go over it all again now, but I am sorry that the Government has not come up with some kind of compromise such as a date beyond which this would not be effective.

If I may briefly state the argument as I see it. I think there are two sides to it. Dr. Davidson and those taking that side certainly have an argument that civil servants paying for only a 1.3 per cent pension for the Canada Pension Plan bracket as from age 65 should all be treated alike. But, on the other hand, civil servants, prior to the coming into effect of the Canada Pension Plan, had the right to retire on full pension if they made it by age 60 or age 62 and continue to draw that full pension for life, even if they worked at something else, and that right which civil servants have enjoyed up to this point is by this combination of circumstances taken away. I think the compromise which should have been worked out is one that should not be taken away from those who had it at the time this legislation came into force.

I realize the anomalies which will be created by deleting clause 9(1)(1d), but in the absence of a compromise I shall have to vote for the amendment.

Mr. WALKER: If this clause is deleted it puts the superannuants in two different classes. There are different benefits depending on the choices they make about working. There will be inequities in connection with people who have paid in the same amount of money.

Dr. DAVIDSON: To the extent that the civil servant, after 65 years of age, continues in the fund and his Canada Pension Plan benefit is suspended, the continuation of the amount of his Canada Pension Plan to that person as a charge upon the Public Service Superannuation Fund would constitute an additional benefit to that working civil servant which would not be available to the retired civil servant of the same age under the same circumstances.

Mr. WALKER: So it puts them in two different classes.

Mr. CHATTERTON: Dr. Davidson rightly pointed out that the Advisory Committee had approved this provision, but the witnesses from both the Civil Service Federation and the Civil Service Association said, in effect, that they had missed this point—either they had missed it or they had not considered it. It is my opinion that the Advisory Committee in this respect did not reflect the opinions of the Civil Service in general. That is all I have to remark on that point.

The Co-CHAIRMAN (*Mr. Richard*): Is the committee ready for the question? Mr. Chatterton's motion has been heard. All those in favour? Those against?

I declare the motion lost.

Shall clause 9 carry?

Mr. KNOWLES: Before clause 9 carries, Mr. Chairman, I should like to draw the attention of the committee to the fact that there does seem to have been some confusion in the minds of the staff side people who agreed to all of this with respect to what they agreed to. I suppose the most precise statement we had on this matter was that of the Civil Service Federation who said that they did not agree to integration in principle but that they agreed to this particular set of figures, and that if there were any changes later in the rates of the Canada Pension Plan contributions they would reserve the right to reopen the whole question. I think that that should be part of the record—the fact that there was confusion in the minds of those who were present at those meetings at which agreement was reached.

Mr. McCLEAVE: Before you put the clause to the committee, Mr. Chairman, perhaps we could appeal to the minister, or to his parliamentary secretary who is here. He was good enough to bring in remedies in respect of the other clause, and he might be good enough to look at this clause in the light of the compromise suggested by Mr. Knowles.

Mr. WALKER: I will bring this point up. I might say that there are many of these clauses, and I presume that a lot of amendments that are going to be proposed have to do with tapping this mythical surplus that is there for additional benefits. But, it has been mentioned many times in this committee that we, in fact, are not in possession of all the facts from the officials as to the danger to the actuarial soundness of the Superannuation Fund if it keeps getting tapped. This is one of our dilemmas, Mr. Chairman, with respect to these amendments. We really do not know, and many of the witnesses who suggested that there were great surpluses that could be used to give additional benefits did not know. This committee has not had the facts or the benefit of advice directly from the officials who are responsible for the actuarial financial soundness of the Superannuation Fund. I shall certainly bring this to the

attention of the minister, and I think it is a point that we could look at very closely in the future.

Mr. KNOWLES: Mr. Walker's point might apply to some of the amendments that will be proposed this morning, but I suggest it is still a question of terminology or semantics. However, the clause simply provides that the status be maintained.

The Co-CHAIRMAN (*Mr. Richard*): Shall clause 9 carry?

Hon. MEMBERS: Carried.

The Co-CHAIRMAN (*Mr. Richard*): We come now to clause 40.

Mr. McCLEAVE: We are dropping our objection to this. This is the one dealing with service in other than the Canadian Forces. We are satisfied that there is protection under the existing law for those who have served in other forces friendly to Canada.

The Co-CHAIRMAN (*Mr. Richard*): Shall clause 40 carry?

Hon. MEMBERS: Carried.

The Co-CHAIRMAN (*Mr. Richard*): The two clauses that remain are 51 and 89. Mr. Knowles had some comments to make with respect to those.

Mr. KNOWLES: Mr. Chairman, when I asked you to stop clause 53, that was really not the clause I was referring to. I was really referring to clause 22, but I am in your hands. I can raise in connection with clause 53 the question I had in mind, or I can wait until we get to clause 1 and then talk about clause 22.

Mr. WALKER: Which will take the shortest amount of time?

The Co-CHAIRMAN (*Mr. Richard*): Clause 22 was carried last night.

Mr. KNOWLES: If there is no objection, clauses 22 and 53—clause 53 deals with death benefits, and clause 22 deals with a number of things including death benefits. I wonder if in the hours that were left free to them last night, Dr. Davidson and Mr. Clark have been able to come up with any figures about any of the suggested improvements in the death benefit provision. Personally, I think it is quite an interesting change in attitude. When this provision was first brought in there was quite a row about the dictatorial way in which this provision seems to have been applied, but now the Civil Service Federation seems to like it and wants improvements in it. One improvement requested is in addition to what has been provided in this bill, and that is that the death benefit should never drop below \$1,000. Then there were other improvements suggested, such as doubling the amount, and so on. Have Dr. Davidson and Mr. Clark been able to come up with any costing on one or more of the suggested improvements not yet proposed by the Government?

Mr. Hart Clark, Director, Pension and Social Insurance Division, Department of Finance: Mr. Knowles, since the meetings which took place yesterday we have consulted with our actuarial advisers. The one amendment which was proposed, and which was most closely related to the type of plan that we have at the moment, was that suggested by the Civil Service Federation on the doubling of the minimum benefit from \$500 to \$1,000. You may recall that it

was suggested that this might be done without any additional contribution, or, as I think they suggested, the surplus in the fund might be applied for this purpose.

The last actuarial report indicated that there was a relatively small contingency reserve which one might say was a surplus. Mr. Clark of the Insurance Department has advised me this morning that the application of this increase in the minimum benefit from \$500 to \$1,000 for those who would qualify now would immediately remove this surplus. In other words, this increase could be provided, say, for those who are already of age 65, but then on a continuing basis to provide this benefit to those that would qualify every year would require an increase in the contributions of approximately 7½ cents per \$1,000 for everyone—not just those who would qualify. But, to spread the cost over the whole Civil Service, as it were, would require an additional 7½ cents per \$1,000 of coverage. In other words, the 40 cents which is now being paid would have to go up to 47½ cents. For various arithmetical reasons it is very convenient to work in terms of multiples of ten, and it is felt desirable also to continue to build up a little contingency reserve, so that the recommendation which would be made to implement this suggestion would be an increase in the rate from 40 cents to 50 cents per \$1,000.

Mr. CHATTERTON: Perhaps you could discuss this the next time you meet with the Civil Service on these matters. There does seem to be an interest in improving this provision in this way.

I am glad clause 53 was stood because I received a letter this morning which, as I understand it, is from a chap who has been in the Armed Forces and then retired, and who retained the right to the supplementary death benefit. Is that correct?

Mr. CLARK: Yes.

Mr. CHATTERTON: Then he joined the Civil Service but by virtue of his terms of employment he had to pay the \$2 a month out of his salary. When he was fired from the Civil Service he could not be reinstated because he was not on superannuation from the Civil Service. In other words, he has lost the opportunity of being covered under the SDB.

Mr. CLARK: Yes. The problem there is cured by one of the sections that we did not specifically mention. You will remember that in regard to paragraph (4) of the explanatory notes, facing page 1, we made reference to several amendments which were to remove anomalies, and so on. This is one of the areas that is cleared up by the amendments to the death benefit part of the plan.

In this particular case, this is a man that is retired already from the armed forces with an armed forces' pension, who came to the Civil Service. I think that if you look at page 30 at clause 23, subclause (5), commencing at line 12, you will find that the situation is described there. It says that such a person shall, subject to such terms and conditions as are prescribed by the Governor in Council, be deemed to have elected to continue to be a participant under Part II of the said act.

That is, this re-instates him. He would, in all fairness to others, have to pay these contributions.

Mr. CHATTERTON: But he would get re-instated?

Mr. CLARK: Yes.

Mr. CHATTERTON: I am glad.

The Co-CHAIRMAN (*Mr. Richard*): Any other questions on this? Mr. Knowles, have you any other comments?

Mr. KNOWLES: That is all.

The Co-CHAIRMAN (*Mr. Richard*): Shall clause 53 carry?
Carried.

The Co-CHAIRMAN (*Mr. Richard*): Shall clause 22 carry again?
Carried.

The Co-CHAIRMAN (*Mr. Richard*): Now clause 89.

Mr. KNOWLES: I ask that clause 89 stand, Mr. Chairman, merely so that I can make a brief statement, before you rule me out of order. It is the one clause of the bill that makes reference to railway workers. I know it is a particular group of railway workers, but I would just like to remind the committee that when we argue that something should be done about the pensions of retired civil servants we have other people in mind as well, including the particular retired employees of the CNR. Just as we are going to get back to civil servants retirees in this committee, I hope some day soon we can deal with the other people as well. Perhaps Mr. Orange will support me in my contention that we should consider all retired people.

The Co-CHAIRMAN (*Mr. Richard*): Shall clause 89 carry?
Carried.

The Co-CHAIRMAN (*Mr. Richard*): Shall clause 1 carry?

Mr. KNOWLES: Mr. Chairman, with regard to clause 1, I would like to ask again what happened to the consideration that was presumably being given to approving the formula regarding the pensions of widows of civil servants. I regret that I did not ask this while the Honourable Mr. Benson was still here. Of course, I can ask him back in the house. But may I say just a word at this point? As all of us around the table know the people concerned in these matters do a good job of keeping us informed. I am sure that many of us around this table have corresponded with people such as Mr. Fred Whitehouse, National Secretary Treasurer for the Superannuates National Association. Not long ago he sent me a Government letter that he had received from the Minister of Finance. It is a public document, as most of Mr. Sharp's letters are, and it had in it this paragraph:

The other question of an increase in the basic formula for the benefits payable to widows of former civil servants under the Public Service Superannuation Act is one which has been considered in the overall picture of contributions and benefits under the act. The Government's decision in this regard will be indicated when the amending legislation is given first reading by the House of Commons.

That letter was written on May 25, 1966. Now, knowing the date of that letter, and knowing that that resolution preceding Bill C-193 was then on the order paper, and knowing of course that the passing of that resolution preceded

first reading of this bill, I assume it was with the first reading of this bill that we would learn the Government's decision.

It sounded to me from that paragraph as though serious consideration, perhaps favourable consideration, was being given; and it was a bit raw to tell this association that the matter was being considered and the decision will be indicated when the amending legislation is given first reading if the answer was still going to be "No".

MR. CHATTERTON: Speaking on the same point, Mr. Chairman, as members know, under the Canada Pension Plan one of the chief benefits of the plan is the surviving benefits. However, there are certain widows who do not qualify under the Canada Pension Plan; for example, those who become widows before age 68 get no benefit under it; those under 35 years of age who have no dependents get no benefits; those now 35 and 45 years of age receive a diminishing amount depending on the age. In many cases the combination of the survival benefit under P.S.S.A. and the Canada Pension Plan is very, very generous; and I am not one who does not wish to see widows well provided for. However, it is anomalous in quite a number of cases that the pension the widow would get is greater than the salary her husband had been earning.

It seems to me, keeping this in mind, that when we have people like Mr. Clark and Dr. Davidson who draft the intricacies of legislation, they could have come up with the ingenuity of some formula that could perhaps have increased the widows' benefit with the P.S.S.A., and then introduce another formula to say that such widow's pension should not exceed a certain percentage of the salary. In other word, give something more to those who get nothing out of the Canada Pension Plan, and something less to those who would get excessive benefits. It seems to me it might have been possible to balance this with regard to the fund. I know it would be complicated, but it would have brought in a little more equity in the combining of the two plans.

The Co-CHAIRMAN (*Mr. Richard*): Before I call clause 1 for adoption—

MR. KNOWLES: One further word on the subject, Mr. Chairman. We have had representations before this committee that varied all the way from 75 per cent to 100 per cent as to what the widow's pension should be in relation to the pension of the civil servant. It does seem to me that the least the Government should do under the present circumstances is to raise it to 60 per cent. I quote that figure because it is the figure in the Members of Parliament Pension Act.

The Co-CHAIRMAN (*Mr. Richard*): You can hardly hold that up as a model.

MR. KNOWLES: I think if we have made provision that our widows get 60 per cent of what our pension would be at the time, that is the least that civil servants should get. I would say to those that have asked for more, God bless them. However, in any case, the combination of the Canada Pension Plan benefit with a 60 per cent arrangement would probably come pretty close to what they are asking for under the Superannuation Act alone.

In other words, Mr. Chairman, I am putting a very strong plea that this issue not be regarded as closed. I think it is unfair to leave this figure of 50 per cent. Make it more if you can, but certainly raise it to the 60 per cent.

The Co-CHAIRMAN (*Mr. Richard*): Thank you.

Mr. LEBOE: Mr. Chairman, I support Mr. Knowles on that point. I think it is very important.

Mr. WALKER: May I just say, Mr. Chairman, that I intend to speak just personally as a member of Parliament without any question, as times goes on, that amendments possibly along the lines of suggestions that have been made here, and amendments in the future, will automatically have to be considered and thought about, to the present act that we are passing.

My own personal view is that this is a good step forward. It may not have gone as far as anybody would like, but I will certainly be bringing the views that have been expressed to the attention of the minister, and I know that Dr. Davidson and Mr. Clark have these thoughts in mind.

I would stress once again the point that all these suggestions that have been made always seem to be coming in at the place where we are not sure on this whole question of the so-called surpluses in the Superannuation Account. If this committee meets say a year from now, and we are together again, I hope we shall go into this whole question of whether there is the necessity for having these very large amounts left available in the Superannuation Fund to pay out future benefits, or if some of them can be released now to take care of some of these increased benefits for the present superannuates.

Mr. KNOWLES: Will you bring this suggestion to your minister for his consideration, for his attention and endorsement?

Mr. WALKER: Yes. My dilemma is that of all members. In this whole area of argument, on the surpluses in the fund, as to whether they are absolutely necessary, that they must remain there, to maintain actuarial soundness, I am not clear on this point.

Mr. CHATTERTON: As to the concern about the balance of the fund, every time the Civil Service get an increase, the consideration is not how much is in the fund but what is a just increase and if it is a just increase and there is not sufficient in the fund the Government has to pay out of general revenue and make a contribution to the fund. By the same token, if we think something is right, the Government should contribute to the fund.

Mr. WALKER: I am concerned about the fund and the so-called surplus.

The Co-CHAIRMAN (*Mr. Richard*): It would be difficult to call another committee on superannuation without adopting some of the suggestions made and which no doubt would be part of a proper superannuation act in 1966.

Under clause 1, I would remind members of the committee that I made a suggestion yesterday to make a change in the title in French, so that the words "service public,"

(*Translation*)

In any of the clauses, or in any one of the appendices of the said Act, or in any rules or regulations enacted under the provisions of the said act are hereby repealed and replaced by the words "fonction publique".

(*English*)

Mr. CARON: I move that amendment.

The Co-CHAIRMAN (*Mr. Richard*): The effect of this is simply to translate the words "Public Service" in the proper manner.

Mr. CARON: It is more in conformity with the language. It means the same thing but it is better French.

Hon. MEMBERS: Agreed.

The Co-CHAIRMAN (*Mr. Richard*): Shall the title carry?

Hon. MEMBERS: Agreed.

The Co-CHAIRMAN (*Mr. Richard*): Shall the bill carry?

Hon. MEMBERS: Agreed.

The Co-CHAIRMAN (*Mr. Richard*): Shall I report the bill?

Mr. KNOWLES: Before it is reported, may I remind the committee that, if it were in order to do so—which it is not—I would move that we include in our request a request for a term of reference to enable us to go into the question of payments to retired civil servants. The Honourable Mr. Benson has given us what I think is a commitment, that we will have such a term passed in the House. Therefore, after the other bills are through, I hope we shall be back soon dealing with this important question.

The Co-CHAIRMAN (*Mr. Richard*): Shall I report the bill?

Hon. MEMBERS: Yes.

Mr. McCLEAVE: I move that we request permission to reduce the quorum to ten members and to sit while the House is sitting.

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

TUESDAY, JUNE 28, 1966
THURSDAY, JUNE 30, 1966

WITNESSES:

Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Messrs. J. F. Mazerall, President, and L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada; Messrs. A. Croteau, Vice-President, and A. Violette, Member of the Administrative Council, L'Association des Fonctionnaires Fédéraux d'Expression Française; Messrs. T. F. Gough, National President, and Wm. Doherty, National Secretary, Civil Service Association of Canada; Mr. J. M. Poulin, President, Ottawa Local 224, Lithographers and Photoengravers International Union; and Messrs. C. A. Edwards, President, W. Hewitt-White, Executive Secretary, Civil Service Federation of Canada.

INCLUDING SENATE THIRD REPORT ON BILL C-193

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Representing the House of Commons

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	¹ Mr. Langlois
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	(<i>Chicoutimi</i>),
Mr. Choquette,	Mr. Caron,	Mr. Leboe,
Mr. Croll,	Mr. Chatterton,	Mr. Lewis,
Mr. Davey,	Mr. Crossman,	Mr. McCleave,
Mr. Deschatelets,	Mr. Fairweather,	Mr. Munro,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Orange,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Hymmen,	Mr. Ricard,
<i>Guysborough</i>),	Mr. Isabelle,	Mr. Simard,
Mr. Hastings,	Mr. Keays,	Mr. Tardif,
Mrs. Quart,	Mr. Knowles,	Mrs. Wadds,
Mr. Roebuck—12.	Mr. Lachance,	Mr. Walker—24.

¹ Replaced by Mr. Émard.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

REPORT TO THE SENATE

WEDNESDAY, June 22nd, 1966.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its third Report as follows:

Your Committee to which was referred the Bill C-193, intituled: "An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act", has in obedience to the order of reference of May 6, 1966, enquired into the said Bill and now reports the same with the following amendment:

1. Amend the French version of the said Bill by striking out the words "*Service public*" and substituting therefor the words "*fonction publique*" in the Title and wherever those two words appear in the said French version of the said Bill.

(Presented June 27, 1966.)

TUESDAY, May 31, 1966.

Ordered,—That Bill C-170, An Act respecting employer and employee relations in the Public Service of Canada, be referred to the Special Joint Committee on the Public Service.

MONDAY, June 6, 1966.

Ordered,—That Bill C-181, An Act respecting employment in the Public Service of Canada, be referred to the Special Joint Committee on the Public Service.

Ordered,—That Bill C-182, An Act to amend the Financial Administration Act, be referred to the Special Joint Committee on the Public Service.

MONDAY, June 27, 1966.

Ordered,—That the quorum of the Special Joint Committee on the Public Service be fixed at ten (10) members, provided that both Houses are represented.

Ordered,—That the House of Commons section of the Special Committee on the Public Service be granted leave to sit while the House is sitting.

WEDNESDAY, June 29, 1966.

Ordered,—That the name of Mr. Émard be substituted for that of Mr. Langlois (Chicoutimi), on the Special Joint Committee on the Public Service.

LÉON-J. RAYMOND,
The Clerk of the House.

REPORT TO THE SENATE

WEDNESDAY, June 22nd, 1966.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its fourth Report as follows:

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented.

All which is respectfully submitted.

Maurice Bourget,
Joint Chairman.

(Concurred in June 27, 1966)

MINUTES OF PROCEEDINGS

TUESDAY, June 28, 1966.

(9)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 3.40 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Croll, Deschatelets, Fergusson, O'Leary (*Antigonish-Guysborough*) (6).

Representing the House of Commons: Messrs. Bell (*Carleton*), Caron, Crossman, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Ricard, Simard, Simard, Tardif, Walker (14).

Also present: Messrs. Émard, Régimbal.

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Messrs. J. F. Mazerall, President, and L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada; Messrs. A. Croteau, Vice-President, and A. Violette, Member of the Administrative Council, L'Association des Fonctionnaires Fédéraux d'Expression Française.

The Joint Chairmen invited Hon. E. J. Benson to make an initial statement on Bills:

C-170, An Act respecting employer and employee relations in the Public Service of Canada,

C-181, An Act respecting employment in the Public Service of Canada,

C-182, An Act to amend the Financial Administration Act.

A discussion ensued as to the approach to be taken in presenting questions to the witnesses. The Committee agreed to hear all briefs first. Witnesses will be recalled at a later date, if necessary, for questioning.

The Professional Institute of the Public Service of Canada was requested to present its briefs on Bills C-170 and C-181.

L'Association des Fonctionnaires Fédéraux d'Expression Française then presented ashort brief with additional comment respecting Clause 16 of Bill C-181.

On a motion of Mr. Tardif, seconded by Mr. Crossman, the meeting adjourned at 5.30 p.m. to 8.00 p.m. this same day.

EVENING SITTING
(10)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.20 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson (3).

Representing the House of Commons: Messrs. Bell (Carleton), Caron, Lachance, Lewis, McCleave, Munro, Richard, Tardif (8).

Also present: Mr. Émard.

In attendance: Messrs. T. F. Gough, National President, Wm. Doherty, National Secretary, Civil Service Association of Canada; Mr. J. M. Poulin, President, Ottawa Local 224, Lithographers and Photoengravers International Union; Mr. R. Faulkner, Member of the Executive Council of Union Employees, Canadian Government Printing Bureau.

The Civil Service Association of Canada presented a brief on the three bills before the Committee.

Following this presentation, the Lithographers and Photoengravers International Union, Ottawa Local 224, read a short brief respecting Bill C-170.

On a motion of Mr. Caron, seconded by Mr. Tardif, the meeting adjourned at 9.10 p.m. to the call of the Chair.

THURSDAY, June 30, 1966.
(11)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 1:10 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, O'Leary (Antigonish-Guysborough) (3).

Representing the House of Commons: Messrs. Bell (Carleton), Caron, Hymmen, Isabelle, Keays, Knowles, Lachance, McCleave, Richard, Simard, Tardif, Walker (12).

In attendance: Messrs. C. A. Edwards, President, W. Hewitt-White, Executive Secretary, Civil Service Federation of Canada.

The Joint Chairmen invited the representatives of the Civil Service Federation of Canada to present their briefs on Bills C-170 and C-181. Ensuing from this presentation, the Committee agreed to accept a supplementary brief from this organization.

The Committee instructed the Clerk to obtain a memorandum from the Civil Service Commission covering the basic research material available on the subject of political activity (participation) of government employees.

The meeting was adjourned at 1.55 p.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, June 28, 1966.

● (3.30 p.m.)

The JOINT CHAIRMAN (*Mr. Richard*): The Committee is now considering three bills which have been referred to it, namely Bills C-181, C-182 and C-170. It was agreed at the last meeting that at the first meeting of this Committee today we would hear a broad outline from the Minister of National Revenue with regard to the legislation contained in these bills. Is it the pleasure of the Committee to hear the Minister?

Mr. KEAYS: I trust, Mr. Chairman, that the Minister has made arrangements to be notified of when the superannuation bills will be called in the House. It would be a shame to have them passed in his absence and also in our absence.

Hon. EDGAR JOHN BENSON (*Minister of National Revenue*): I have made arrangements for myself to be notified and arrangements that you will not be.

Mr. Chairman, honourable members of the Joint Committee, you are meeting today to begin your examination of Bills C-170, C-181 and C-182, three measures which, taken together, propose the introduction of reforms in the internal administration of the public service which have only one parallel in our history, I believe, namely the reforms brought about by the Civil Service Act of 1918.

It is apparent from the character of the proposals contained in Bill C-170 that many administrative arrangements will remain to be completed after Royal assent before bargaining relationships can be established. The staff relations board will have to be manned, and it will need time to develop and promulgate many rules and regulations before it will be feasible for it to begin to receive applications relating to the determination of bargaining units and the certification of bargaining agents. If the Committee's study of the legislation cannot be completed and the legislation given third reading before the summer recess, then everyone concerned must be prepared to endure another considerable delay; that is, if it is put off until next fall, for after the legislation is passed it is going to take some additional time in order to set up the three bodies which are involved.

Turning now, Mr. Chairman, to matters of substance, I would like to review, if I may, those issues in the proposed legislation which evoked analytical comment in our consideration of the three bills during second reading.

Perhaps I could begin with a brief review of the legislation as a whole, attempting to clarify if I can the problem of comprehending the inter-relationship of the three measures, and the inter-relationship of the three institutions

which will play leading roles in its administration; namely the Public Service Commission, the Treasury Board and the Public Service Staff Relations Board.

The proposed Public Service Employment Act vests the commission with authority for all matters related to the staffing of the public service, including initial appointment, promotion, and all matters related to the determination of qualifications for appointment and promotion; in sum, those matters which are clearly related to the preservation of the merit system in the public service of Canada. Although the Public Service Commission would be responsible for the administration of the Public Service Employment Act, it would have a capacity to delegate authority to deputy heads in all areas except appeals. The intent is to provide for a working partnership of the commission and departments in the area of staffing of a kind that has not hitherto been achieved. This kind of relationship was identified by the Glassco Commission as a desirable objective and I believe that this legislation would permit the realization of that objective without any encroachment on the merit system which must, in all cases, be preserved.

The effect of the proposed Public Service Employment Act and the proposed amendments to the Financial Administration Act, taken together, provide for the consolidation in the Treasury Board—as the representative of the employer in most of the Public Service—of authority relating to such matters as classification, pay, hours of work and leave, which are now regulated by the Civil Service Act and, in one way or another, by the combined authority of the Commission and the Board. A patchwork quilt of minor authorities, related to terms and conditions of employment which have been granted by many statutes to a variety of departments would, under the proposed amendments to the Financial Administration Act, be brought within the authority of the Treasury Board. This consolidated authority for the determination of terms and conditions of employment, which under Bill C-182 would be vested in the Board, would be exercised subject to the provisions of Bill C-170, that is to say, in a collective bargaining relationship wherever employees had met the requirements for certification and had been incorporated in bargaining units.

The Treasury Board's role as employer embraces and includes the familiar employer role of departments, and it may be expected that in its discharge of these more comprehensive responsibilities the board will establish to a considerable degree the kind of "general manager" relationship to departments in matters of administration which was envisaged in the Glassco Report.

Finally, Bill C-170, which is concerned exclusively with the regulation of the employer and organized employees in collective bargaining and with the processing of grievances, is in essence a conventional labour relations act, modified in some areas to conform to the special requirements of the Public Service. This Bill provides for a new administrative body, the Public Service Staff Relations Board, together with adjudicators and arbitration tribunal, which although totally independent of the Public Service Staff Relations Board in the discharge of their operational responsibilities, would fall within the administrative purview of the Board. Together, these bodies would administer the provisions of the proposed act and assume a regulatory role in relation to the rights and obligations of the employer, employees and employee organizations in the collective bargaining relationship.

Before turning to more particular matters, I would like to say, if I may, that to those of us who have spent a great deal of time in the development of the legislation, the comments of honourable members in the House appeared exceedingly perceptive. The issues raised were for the most part important issues, frequently touching upon areas in the legislation where no wide and well marked road stretched out before us. We have been conscious, as I am sure all members of the Committee are, of the protection afforded by the application of conventional solutions to difficult and contentious problems. However, in the largely uncharted area of public service collective bargaining, conventional solutions are not, in all circumstances, capable of dealing with certain unique aspects of Public Service relationships. To meet these new and unique circumstances we have had to develop new and unique solutions.

For the most part the comments of honourable members in the House relate to matters where conventional ways and means did not appear to provide acceptable solutions and where innovation, of one kind or another, appeared to be necessary. The government has proposed solutions to these kinds of problems which it believes are reasonable and workable in the context of the basic objectives of the legislation. I make no claim that the solutions proposed in these difficult areas are the only possible solutions. There are undoubtedly other ways to deal with these issues, and I would like to reiterate what I said in the House, that we will give very careful consideration to alternative proposals advanced by this Committee. However the ultimate test of any proposal must be its capacity to support the objectives of the legislation. I think I may say on behalf of the government that we will support alternative proposals that we believe are consistent with the basic objectives of the legislation, but that we will be bound to oppose proposals for changes in the bills which fail to take account of the total objective.

Perhaps the point most frequently mentioned by honourable members during second reading was a concern for the detailed character and complexity of Bill C-170. First, as to its length, our experience suggests that to provide for a genuine system of collective bargaining for 200,000 employees, it is necessary to regulate the same elements of the employer-employee relationships that are regulated in legislation that governs a much broader jurisdiction. If I may make a generalization, it seems to me that a short and simple collective bargaining statute is, in fact, unlikely to provide for a genuine collective bargaining relationship. To provide some meaningful comparisons let me refer to three statutes which clearly provide for genuine collective bargaining: the Ontario Labour Relations Act which contains 96 clauses; the Alberta Labour Act which contains 126 clauses; and the Industrial Relations and Disputes and Investigation Act which contains 71 clauses. By comparison, Bill C-170 contains 116 clauses.

The number of clauses in an act is of course not a very precise guide to the character of the legislation, but it has some relevance to the problem. Bill C-170 deals with a number of matters which are not familiar elements of most labour legislation. The most important of these are what might be called the "transitional provisions", many of which are contained in clause 26. Other provisions of an exceptional nature include the two separate and distinct dispute settlement processes, and clauses which establish a uniform system of grievance procedure

and grievance arbitration applicable to all employees who would fall within the jurisdiction of the proposed statute. One or two other clauses deal with special matters, such as national security and the safety of the public.

The transitional provisions, it must be remembered, will lapse and have no effect after thirty months. The clauses relating to the arbitration of disputes, and to grievance procedures and adjudication, together with the few other clauses that deal with exceptional matters, add up, I believe, to about 28 clauses, which, if subtracted from the total, would leave us with a conventional labour relations act of 88 clauses; that is a little longer than the IRDI Act, a little shorter than the Ontario act, and a good deal shorter than the Alberta Act.

Let me hastily add to this numerical analysis my own regret that this legislation is so long, so full of detail and so complex and difficult to comprehend. I hope that the prediction of one honourable member, that this legislation will provide a rich harvest to lawyers, is not borne out in practice. On the other hand, I would not wish to leave many important issues of right and practice in doubt, or limbo, simply to reduce the length of the statute.

There was a hope, I think, in all of those associated with the early preparations for collective bargaining, that we could establish bargaining relationships in the public service within a relatively simple structure based on broad statutory guidelines. However, as the objectives of the legislation were analyzed, it became obvious that the same matters that are dealt with in the statutes that govern employees in the private sector must also be dealt with in this legislation, and as well, certain additional matters that are unique to the Public Service. Confronted with that fact, the choice became one of providing the Public Service Staff Relations Board with extraordinary and unprecedented authority, or producing an act comparable to other labour acts in size and complexity. Confronted with this choice the preparatory committee recommended an approach directly comparable with time tested practices in the private sector, and the government has endorsed this recommendation.

The heart of the matter, as I see it, is that a genuine system of collective bargaining confers substantial rights on individuals and parties, and it is difficult to provide these individuals and parties with any assurance about these rights without providing for them in statute law.

There is of course the special problem posed with respect to the responsibilities normally assumed by the Minister of Labour in the area of dispute settlement. Commenting on this problem, the preparatory Committee said:

Under the provisions of industrial relations law applying generally, responsibility for "third-party" functions (such as the certification of bargaining agents and the provision of conciliation services) is normally divided between a Minister of Labour and a labour relations board. Although quite satisfactory in the private sector, where a government can stand between an employer and a group of organized employees in a position of impartiality, such a division would be open to question in the public service system because the government is the employer and the Minister of Labour is a member of the government. For this reason, the preparatory committee concluded that the administrative responsibility for the system, including responsibility for the provision of all "third-party" services, should be concentrated in an independent body.

The solution proposed by the Preparatory Committee to the problem seemed to the government to be a viable solution. It was suggested in the debate that a clear separation must be maintained between the authority of those concerned with the certification of bargaining agents, and the authority of those concerned with the day to day resolution of problems arising out of the on-going relationship of the parties. So far as I have been able to determine, this kind of separation is not reflected in any precise fashion in the labour relations statutes in Canada. The Canada Labour Relations Board, in addition to dealing with questions, relating to certification, has authority, upon application, to prescribe a clause to be included in a collective agreement, providing for the final settlement by arbitration of differences arising out of its meaning or interpretation. It also has the capacity to consent to terminate a collective agreement within a period less than the prescribed one year minimum. Perhaps more important, it is vested with authority to investigate complaints alleging failure to bargain in good faith, and to issue orders requiring the parties to do such things as in the opinion of the board are necessary to secure compliance with those provisions of the act which require the parties to bargain collectively with a view to reaching collective agreements.

The Ontario Labour Relations Board enjoys even wider authority relating to the on-going relationship. In the area of collective agreements the Ontario boards exercises the same kind of responsibility assigned to the Canada board by the IRDI act. In addition it has the capacity, upon application, to add to a collective agreement a clause clarifying the exclusive authority of a bargaining agent. The Ontario board may enquire into the status of Locals under trusteeship and extend their jurisdiction beyond the prescribed one-year limit. It may also enquire into complaints of unfair labour practices and direct the manner in which unlawful actions are to be redressed. It has considerable authority and responsibility in jurisdictional disputes and is empowered to issue declarations with respect to unlawful strikes and lock-outs. It is also vested with authority to rule on application for consent to prosecute for offences under the Act.

The British Columbia Labour Relations Act reflects a similar involvement of the labour relations board in the post-certification relationship of the parties. The British Columbia board has an important role in dealing with complaints of unfair labour practices; it may consent to the alteration of terms and conditions of employment during negotiations; it is involved in the establishment of grievance arbitration boards when the parties cannot agree on their membership, and may rule on the jurisdiction of such a board; it has one or two other responsibilities unrelated to certification, which, with those I have mentioned, reflect, as in the case of the other two boards, an important role relating to the on-going relationships of the parties.

My own conclusion, based on this limited analysis, is that the important distinction is between the role of the Board and between the role of the Minister, rather than between the certification and post-certification responsibilities of the Board. If I were to attempt to sum up the situation as it appears to exist in most jurisdictions, I think I would say that the Board is always the responsible authority in certification, and may also be involved in almost any other area, except dispute settlement. On the other hand, the Minister is always

involved in dispute settlement, is never involved in certification, but may, depending on the particular jurisdiction, have some limited responsibilities in other areas.

If this analysis is correct, in this area of dispute settlement, there appears to be three choices: first, to vest the Minister of Labour, in this system, with his traditional authority and responsibility in the dispute settlement process, ignoring his role as a member of the government, which is also the employer; second, to find or create a third-party, other than the board, to discharge this responsibility; and third, to vest this responsibility in the board or its chairman. The first course was rejected by the Preparatory Committee for the reasons that I referred to earlier. It seems to me that the Committee was right, and that it would be quite wrong to expect the Minister of Labour to act as a third party in a dispute between the government and its employees. The second approach which was, I believe, suggested during the debate on second reading, is one that the Committee might wish to explore, although I confess that at the moment it appears an awkward way to handle the problem. The third course of action is reflected in the bill, the authority being vested in the person of the Chairman rather than the Board. Although I have no firsthand knowledge or the way in which a Minister of Labour discharges his responsibilities for the settlement of disputes, it seems to me that the Preparatory Committee was right in concluding that it is not a task that could be undertaken by nine persons as effectively as by one, and for that reason the responsibility has been given to the Chairman rather than to the Board.

The obligation of an employee organization to elect one course of dispute settlement, or the other, before being certified, and the fact that employees in the bargaining unit would be bound to that process for three years was criticized during second reading. It might help to throw some light on this problem if I were to reconstruct the problem, and the various facets of the solution as it appeared to the government.

The preparatory committee, in its July 1965 report, recommended a process of dispute settlement which would remove from the government its traditional authority for unilateral determination of the terms and conditions of employment of public servants, by providing employee organizations who had won bargaining rights, with the right to invoke arbitration which would be binding on the employer, the bargaining agent and the employees concerned. This, was precisely the kind of dispute settlement process that most employee organizations had sought for many years, and which the principal associations continued to endorse. The government's response to the proposal of the Preparatory Committee was positive. In the view of the government the proposed approach to dispute settlement would provide the majority of employees with the kind of system they had asked for and the Canadian public with the optimum protection against the disruption of public services. The basic concept appeared to be a good one, requiring only a slight amendment to make it quite clear that the government as employer would, in fact, be bound by the awards of the Arbitration Tribunal.

At about the same time that the Preparatory Committee reported, it became increasingly clear that members of employee organizations in the Post Office department opposed the recommended system of dispute settlement as a

matter of principle. In this position they were supported by spokesmen for organized labour in other areas of the community.

In the circumstances, the Government decided to accommodate the views of those who were opposed to arbitration in principle by including in the legislation an alternative process of dispute settlement directly comparable to that provided in the Industrial Relations and Disputes Investigation Act. The basic decision to provide for two separate and distinct dispute settlement processes created a new and unprecedented situation. Ordinarily, labour legislation binds the parties, by law, to a single process of dispute settlement. The provision for a second process of dispute settlement created a situation in which one of the parties—the employee organization—was to have the opportunity to choose one of two alternative systems of dispute settlement. The employer was to have no say in the matter. On the face of it, there existed an imbalance in favour of employee organizations which was not to be found in other labour legislation. This imbalance was further exaggerated by provisions for a system of dispute settlement in which strikes were to be lawful in prescribed circumstances, while the employer's traditional sanction, the lock-out, was not to be available.

If there was to be a choice between two processes of dispute settlement, and if the employee organization was to make that choice, the time at which the organization concerned would exercise the option and the period during which the employees concerned would be bound by that choice had to be settled.

I would like to emphasize the point I made earlier, that the purpose of the exercise was not to provide the bargaining agent with a unique tactical advantage—of a kind unknown to bargaining agents in other jurisdictions. The idea of permitting the bargaining agent to exercise his option during the process of negotiations was simply not thought to be in keeping with the original intention. Indeed, to leave this decision to be made at the point where a dispute was declared would require the employer to conduct negotiations without knowing what set of rules would govern a dispute if agreement could not be reached. The result would be a situation in which the bargaining agent would be free to threaten one sanction or another to meet his tactical needs in the negotiations.

If the legislation were to provide a solution to the problem of timing consistent with the original intent, it was clearly necessary to provide that the option should be exercised prior to the establishment of a negotiating relationship. To accommodate the "safety and security" clause, and in recognition of the impact that it might have for an employee organization choosing the conciliation process, it was necessary to provide the employee organization with the ability to determine the probable effect of that clause on its capacity to impose sanctions at the time of a dispute. The most appropriate time to deal with both of these matters appears to be at the point of certification, and Bill C-170 so provides.

The remaining question was, how long should the option bind the employees concerned? Three years appeared to be sufficient to provide a reasonable degree of stability in the employer-employee relationship while at the same time reducing the chance that the choice of option would become a continuing bone of contention within employee organizations. The proposals contained in

Bill C-170 are based on such a model—which seems to me to represent a series of consistent and reasonable solutions to the several problems created by the decision to provide for a second process of dispute settlement.

In referring to the exceptional length of the Bill, I mentioned that it was due in part to certain additional matters which are dealt with in Bill C-170 which do not ordinarily constitute a part of labour legislation. I have dealt with one of these at some length, the optional dispute settlement process. It might be useful to say a few words as well about the reasons for providing for uniform grievance procedures throughout the service, rather than leaving them to be bargained separately in each collective agreement.

Honourable members will recall that the Preparatory Committee placed considerable emphasis on the value of service-wide grievance procedures with common basic characteristics. The government concurred with this point of view for two reasons. First, unlike most situations in the private sector where a single bargaining unit embraces almost all the employees in a given location, we may expect in the Government service to have many offices in which employees from several bargaining units, governed by separate collective agreements, work side by side. In these circumstances it seemed desirable to ensure that the basic rights of employees to process grievances should be similar, and there could be no assurance of this if these rights had to be determined and secured at the bargaining table. Second, not all public servants will seek certification and the establishment of a bargaining relationship with their employer at the same time. Indeed, some groups may not wish to deal with the employer in a collective bargaining relationship at all. Taking all of these aspects of the situation into account, the proposal to provide for grievance procedure in the legislation appeared to us to be a good one.

Some concern has also been expressed about the relationship of the appeal processes prescribed in the proposed Public Service Employment Act to the adjudication processes prescribed in Bill C-170.

In considering the question as to whether the Commission or the adjudicators should hear appeals, there is an important distinction to be made between the role of the Commission in dealing with appeals, and the role of the adjudicator in dealing with grievances. The Commission is an administrative body, vested in law with responsibility to determine and protect the standards and procedures that are necessary to ensure the maintenance of the merit system. Under the provisions of the proposed legislation—which in this area is wholly consistent with the Civil Service Act of 1918—the Commission stands between employees and the employer, accountable only to Parliament for the discharge of its function as protector of the merit system.

The adjudicator, on the other hand, has no administrative responsibility. The standards which he adjudicates are created not by himself but by the parties. His prime function is to enforce rules which the parties themselves have determined appropriate to their relationship. To involve him in the administration of the merit system, as a final authority on what is merit and what is not, would not only constitute a direct challenge to the authority of the Commission, but would also involve the adjudicator in responsibilities which are wholly foreign to his role in the arbitration of grievances.

There will admittedly be borderline problems between the two review systems. However, assuming a reasonable measure of common sense on the part of those responsible for the respective systems, I would not anticipate any great difficulty in the resolution of such problems.

There was some suggestion, I believe, that the appeal and grievance processes might lead to substantial delays in the resolution of grievances. It is not apparent to me why that should be so, but if that is likely to be the case, the government would be glad to make appropriate changes in the legislation to provide clear assurance against inordinate delay in the disposition of grievances. It is possible that this comment arises out of an interpretation placed on clause 23, which states as follows:

Where any question of law or jurisdiction arises in connection with a matter that has been referred to the arbitration tribunal or to an adjudicator pursuant to this act, the arbitration tribunal or adjudicator, as the case may be, shall refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, and thereupon any proceedings in connection with that matter shall, unless the Board otherwise directs, be suspended until the question is decided by the Board.

As I read this clause, the Board has clear authority to provide that adjudication hearings will continue where the jurisdiction of the adjudicator is contested. If it is the Committee's wish that the intention of the legislation in this area should be clarified by amending this clause to provide that arbitration or adjudication proceedings are to continue pending determination of the question of law or jurisdiction unless the Board otherwise directs, the government would be pleased to propose such an amendment.

I have not dealt with the problem of the political activity of public servants, which is a problem that relates to the proposed Public Service Employment Act and to clause 39 of Bill C-170. If I could make a suggestion, I think the Committee might find it desirable to come to grips with this problem first in relation to the provisions of clause 32 of Bill C-181. As I indicated in the debate on second reading, that clause is identical in substance to the clause that deals with this question in the present Civil Service Act. If the Committee can reach a consensus on this problem as it relates to individuals, I do not think that it will be difficult to adjust the relevant provision of the collective bargaining bill, which relates to the political activities of employee organizations. I do not know how the Committee will wish to tackle this problem, but in view of the responsibilities of the Civil Service Commissioners for the protection of public servants from political bias, either positive or negative, I would hope that they would be given an opportunity to contribute their point of view to our analysis of the problem.

It was suggested, I believe, in the debate on second reading, that clause 7 of Bill C-170 is too restrictive, and that it should be phrased in such a way as to permit its abridgement by the parties in collective bargaining, if the employer agreed to such an abridgement. It seems to me that a statutory removal of these particular responsibilities from the area of collective bargaining is wholly justified, having regard to the Government's traditional responsibilities for the

organization of government. To assume participation of employees in the determination of the matters contained in this clause is to assume a reduction in the Government's accountability to Parliament in an area which, in the Government's view, is of great constitutional importance.

It was suggested during our consideration in the House of the proposed amendments to the Financial Administration Act—Bill C-182—that section 7, as amended, appeared to provide the Treasury Board with authority to determine terms and conditions of employment without reference to the obligations imposed upon it as an employer by the collective bargaining legislation. Although the intent of the legislation is, I think, clear to all members of the Committee, and although I am informed that from a strictly legal point of view, the law as written would clearly oblige the Treasury Board to discharge its responsibilities in accordance with the provisions of the Public Service Staff Relations Act, to resolve any doubts that may exist in this regard, the Government will explore the possibility of an amendment to this clause which would more readily communicate the intention of the legislation.

Turning now to an entirely different matter, a question was raised in the earlier debate concerning the apparent power of the Chairman of the Public Service Staff Relations Board to specify in writing the matters which are to be dealt with by a conciliation board. This was seen by the speaker as an exceptional and unnecessary authority. It was our intention to give the Chairman of the Board precisely the same authority and responsibility in this matter as that vested in the Minister of Labour in section 31 of the IRDI Act. I have asked the legislative draftsman to look at the wording of this clause, and I shall be in a better position to discuss this criticism at a later stage in the proceedings of the Committee.

It would be useful, I think, to explain in more detail the intentions of the Government relative to the various matters which are to be determined by the Governor in Council during the transitional period. For the most part, these transitional matters are dealt with in clause 26 and in one or two subsections of other clauses of Bill C-170. These provisions are intended to facilitate what the Prime Minister described in his statement in the debate on the resolution as "an orderly change to the collective bargaining relationship".

The several proposals in Clause 26 are designed to serve a number of separate and distinct purposes. The first of these is to carry forward into bargaining the present occupational approach to pay determination by relating bargaining units to occupational groups in the reformed system of classification during the transitional 30-month period. A variety of other approaches to the determination of bargaining units was considered, including the familiar method in the private sector which permits employee organizations to propose the definition of the bargaining unit and gives the labour relations board complete freedom to accept, reject or modify the proposal of the organization seeking certification. However, given the unitary character of the Government as employer, the long tradition of regulating the pay of employees by occupational classes, and the complexity and overlapping jurisdictions of the employee organizations which have for many years represented the interests of public servants, an approach linked at the outset to the revised and simplified

classification grouping seemed to provide the best means of establishing genuine communities of interest for the purpose of bargaining.

It must of course be remembered that most restrictions on the character of bargaining units are to be removed twenty-eight months after the Act is proclaimed. The Public Service Staff Relations Board will at that point in time have authority to establish new units or revise those that have been defined in accordance with the apparent requirements of the situation, and without reference to the provisions of clause 26.

Clause 26 also places a number of other restrictions on the parties during the transitional period. It vests the Governor in Council with authority during a two-year period to establish the dates upon which employees in different categories would be eligible to be included in bargaining units and it restricts the freedom of the parties to enter into collective agreements before a prescribed time.

It is proposed to bring different occupational groups into bargaining at different times so that the existing pay review cycle may be carried over into the bargaining relationship. The entire classification revision program was scheduled to support and maintain this cycle, and to permit employees in the new groupings to come into bargaining at a time appropriate to their place in the pay cycle.

The limitation imposed on the freedom of the parties to enter into collective agreements, even though the employees concerned may be included in a bargaining unit and represented by bargaining agents, also relates to the desire of all concerned to retain the existing pay review cycle in the first rounds of collective bargaining. In line with this objective is the intention to preserve the pay review date as the effective date of pay revisions, the intention to continue the practice of discussing pay only after the pay research data is available to the parties—that is, about six months after the pay review date—and of course, the intention to retain the Pay Research Bureau as an independent agency securing and tabulating data on the rates of pay of persons employed in the private sector.

Mr. Chairman, and members of the Committee, I am most grateful to you for your patience in listening to what has been a rather disjointed review of the major issues identified during the debate in the House—issues on which I thought I had an obligation to comment at the first opportunity.

If it is the Committee's wish I would be happy to clarify any of the points I have made, but if possible I would like to avoid any definitive exchange of views on these issues until all of us have had an opportunity to listen to and assess the views of employee organizations and others who may appear before the Committee to present briefs, and to otherwise express their views.

Mr. Chairman, it is my intention, subject to my other obligations as a Minister, to keep in close touch with the proceedings of the Committee. I will be pleased, whenever it is convenient for you and possible for me, to place myself at your disposal. In the meantime, officials of the Preparatory Committee on Collective Bargaining, the Civil Service Commission and the Treasury Board

who have been closely associated with the development of this legislation will be on hand to provide technical guidance to the Committee in its analysis of the legislation.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Benson.

Before proceeding, do all the members have a copy of the bill or bills? If not, I would ask the clerk to distribute some copies because I noticed some members did not have any.

Mr. BELL (*Carleton*): Mr. Chairman, I am sure that all members of the Committee are grateful to the Minister for his comprehensive, and, I thought, objective statement of the principles of the legislation and of the problems which are inherent therein.

I am sure that every member of the Committee has a multitude of questions that they would like to ask at this time—certainly I have—and I think we should consider how we can have the most orderly proceeding without any individual monopolizing the questioning before the Committee. I personally would like to commence questioning the Minister on the subject of the actions which are now being taken preparatory to the institution of the new system, and then, secondly, in respect of the time schedule which is involved and what can be done to compress the time schedule.

I think everyone of us is very sensitive that there should be the least possible upset within the public service during the transitional period. The whole approach is one which is very far reaching and, indeed, may be even revolutionary in nature, and I think we want to make certain as a Committee that there is as little anxiety and unrest in the public service during this transitional period as possible; that the change from the existing system to the collective bargaining system is on the most orderly possible basis. On that note of orderliness I wonder, Mr. Chairman, if you have considered what is the best technique whereby we can come to grips and proceed so that each one of us will take our part in the Committee, no one monopolizing it, and stay to a more or less consecutive line of questioning.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, and members of the Committee, I hope that no member will monopolize the time of the Committee, although it would be the wish, I am sure, of everyone to have the opportunity to speak as much as possible. I had thought to start with that the Chairman would call on those who indicate they want to speak in order, and that any member would not take more than a limited time at once, say, ten minutes to start with, so that other members may have an opportunity to question the witness. If there is an opportunity to come back to a member who has already questioned, that is quite proper. Is this agreeable?

Mr. KNOWLES: Mr. Chairman, rather than going from member to member, could we not go from subject to subject?

The JOINT-CHAIRMAN (*Mr. Richard*): I was speaking about dealing with the same subject, of course, providing one member does not take 25 to 30 minutes on the same subject. We could go from member to member on the same subject.

Mr. KNOWLES: But how do we decide in what order we take the subject or the aspects of this matter?

The JOINT-CHAIRMAN (*Mr. Richard*): At the present time it is very difficult to have an order about subjects. We are now talking, as I understand it, on collective bargaining and there was no order about the manner in which the presentation was made this afternoon, I mean according to sections. I would like to suggest that Mr. Bell should pursue one problem at the present time, and if other members have question on the same problem it should be exhausted, and then we should proceed to another matter.

(*Translation*)

Mr. CARON: This would be for today only?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, for today only.

Mr. CARON: We will start on C-170 now and will consider it in detail later on once we have questioned the Minister. We will have to take the bill and consider it in detail there is no sense in jumping from one to another so long as we have not considered the bill in detail.

(*English*)

Mr. KNOWLES: Mr. Chairman, with all respect to your comment on Mr. Benson, and I am not always his defender, I think his paper did deal section by section—I do not mean sections of the bill—I mean aspect by aspect with the major issues that were raised in the debate on second reading. I think Mr. Bell has put in another subject which Mr. Benson did not deal with in full, that is the transition problem. I would think that we could perhaps take what Mr. Bell has opened up, namely the question of transition, and then take Mr. Benson's paper and take those subjects seriatim.

The JOINT-CHAIRMAN (*Mr. Richard*): Well, I agree with you, Mr. Knowles, that that would be quite easy if we had Mr. Benson's paper before us, and if you wished to proceed in that manner. But Mr. Bell did open in some manner outside of the remarks which Mr. Benson had made, and if you wish to dispose of Mr. Bell's questions now, then I would be quite happy to proceed in accordance with that.

Mr. KNOWLES: Does Mr. Benson have spare copies of his paper?

Mr. BENSON: No, I have not. I would be quite willing to come back and answer questions on the particular paper after it has been printed and you have it in your hands.

Mr. KNOWLES: That will be a week.

Mr. BENSON: Well, I am just expressing my own opinion now, but I believe it is vital that this Committee hear representations from the civil service associations as soon as possible. I do not know what is going to happen in Parliament any more than anyone else for here does, but I think it would be very useful for the Committee to hear representations from the major civil service associations, which will cover many of the points I have raised. Then I would be quite willing to go into the particular points in more detail.

Also, I am willing to be here—my officials will be here in any case—but I am quite willing to come back on each of the bills as you consider them, if you want me at any particular point, or to have you build up questions that you want to ask based on the legislation as it has been presented and the

representations you are going to receive from the various civil service associations. When the Committee has had the opportunity of analyzing both what I have said this afternoon, and the representations of the associations—and I know that they are all familiar with the bills already—then I would be very pleased to come back and give further views on the points which are outstanding and are causing difficulty.

Mr. TARDIF: Then, Mr. Chairman, if the Minister cannot be here all the time, would it not be a good idea to question him on his presentation this afternoon? After we have studied the bill we can gather the questions which we think the Minister should answer, and ask him to come back on another occasion to answer all those questions in order.

Hon. Mr. CROLL: Mr. Chairman, we are at some disadvantage. I did not get here on time and it is my own fault, but the Minister gave us a considered statement. Surely we should have that in front of us before we start questioning the Minister, or we will be talking about half a dozen things at the same time and at various times. I think the suggestion which the Minister made, namely that he will come back in due course, is a good idea. In the meantime, let us hear representations from the other associations and then we will have a better understanding of the bill.

Mr. BENSON: I am told that I can have enough copies of my paper for all members of the Committee by Thursday.

Mr. KNOWLES: In both languages?

Mr. BENSON: No, I am sorry; it will only be in English.

An hon. MEMBER: Can it be translated?

Mr. BENSON: Well, I am not sure it can be translated by Thursday, but I will do my best.

Mr. BELL (*Carleton*): In order to make some progress, Mr. Chairman, suppose I start off with things which are directly within what the Minister said this afternoon. What I really would like to start off with is the actual time schedule, and the priorities, the commencement of collective bargaining and the time lag between certification and bargaining, which were dealt with very specifically in the Minister's statement.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, you will understand that if we are to start in that fashion we will have to listen to other members ask questions about other features of the brief which they recall.

Mr. BELL (*Carleton*): I am only suggesting this as a technique of getting ahead.

Mr. WALKER: Well, just to clear the air, Mr. Chairman, are there representatives of staff associations here today prepared and ready to make presentations.

The JOINT CHAIRMAN (*Mr. Richard*): I understand that there are. The "Association des Fonctionnaires Fédéraux d'Expression Française" and the Professional Institute of the Public Service of Canada are here this afternoon.

Mr. WALKER: Well, may I suggest that we hear these other briefs right now and then we can make a study of the matters. If these people have been invited

here, I do not think it quite right that they should sit through this meeting and subsequent meetings waiting for their turn. If the Committee agrees I suggest that since we have had one presentation, let us have as many presentations as are available right now.

Hon. Mr. DESCHATELETS: I would second that motion. I think we will be able to proceed more orderly if we have all the representations before us.

The JOINT CHAIRMAN (*Mr. Richard*): Is that the pleasure of the Committee.

Mr. WALKER: I so move.

Hon. Mr. DESCHATELETS: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There are two briefs on the three bills.

I should say that the Professional Institute of the Public Service of Canada is making representations on two bills, namely C-170 and C-181, not on C-182.

Mr. L. W. C. S. Barnes, Executive Director, the Professional Institute of the Public Service of Canada: Mr. Chairman, hon. members of the Committee, the Professional Institute welcomes this opportunity to present its comments on Bill C-170 to the hon. members of this Committee. Before undertaking a detailed review of the proposed legislation, we should like to express the great satisfaction felt by the members of the Institute with the action which has been taken by the government in presenting this bill to Parliament. For many years the Professional Institute has expressed its belief that the well-being and efficiency of the public service would be greatly enhanced by the introduction of a system of staff relations based on negotiations backed by binding arbitration. The comments which we shall make on the details of this particular bill will, we hope, be regarded as constructive proposals aimed at improving points of detail in a piece of legislation, the principles of which have our very sincere endorsement.

In reviewing Bill C-170 one's attention is drawn repeatedly to the very marked influence which current practice in the North American industrial relations scene has had on the drafting of this legislation. A good deal of this is perhaps inevitable, having regard to the political and economic background against which the statute will eventually operate, but, on the other hand, the institute believes that analogies between industry and the civil service can be drawn too far. It is for this reason that we believe that somewhat more attention should be paid to the experience which has been gained in collective bargaining in the public services of the major commonwealth countries. In this connection, we would refer particularly to New Zealand and Australia and, of course, to the Whitley Council system in the United Kingdom.

In the proposals which it placed before the House of Commons Committee which studied the bill which subsequently became the present Civil Service Act, the Professional Institute recommended the establishment of a system of negotiation and arbitration on the general Whitley pattern to be based on a minimum of legislation, merely one or two permissive clauses in the Civil Service Act. These proposals were not accepted and the consultation concept was introduced. We realize that the eventual failure of this consultation concept

has accelerated the demand for something rather more formal than the proposals which we made in 1961. On the other hand, the present legislation appears to swing to a rather far extreme; in places it contains areas of extremely rigorous definitions while in others it contains wide generalities. The former may well prove to be unduly restrictive in the light of developing experience while the latter could perhaps open the door to unnecessary friction in interpretation. The proposals which we shall make are aimed in part at providing some relief in these particular areas.

Another aspect of the bill in respect of which we shall be making detailed proposals is that concerning the rights of members of the Professional Institute who might eventually be designated as management. As the legislation presently stands, a large number of senior professional personnel who now enjoy the limited advantages provided by the consultation system may well find themselves in a very dubious situation. The concepts of management in the bill are capable of extremely wide interpretation and persons exempted under this or other headings from the provisions of negotiation and arbitration might well find themselves dependent entirely upon state paternalism and possibly without the rights of staff association membership. The Professional Institute is strongly of the opinion that exclusions from the act must be restricted to those employees who are directly involved in the development of the government's personnel and financial programs. Furthermore, such persons as are of necessity excluded from the provisions of the act should not be barred from those advantages of staff association membership which are not in significant conflict with their direct official responsibilities.

Finally, we believe that the act should contain provisions for the establishment of an independent review and advisory body which would make recommendations on the pay and conditions of service of excluded personnel either on its own initiative or at the request of the government or the relevant staff association. We believe that the precedent established by the British government in the creation of the Standing Advisory Committee on the Pay and Conditions of Higher Civil Service is extremely relevant and should be reflected as an integral part of the present legislation.

In legislation as complex and detailed as that which we are presently considering the interpretation to be applied to the terms employed is a matter of major significance. In the light of this fact the Professional Institute believes that certain of the definitions given in Section 2 of the act require further examination.

In defining "bargaining unit" the act refers to "a unit of employees appropriate for collective bargaining." Having regard to the close dependence of this legislation on industrial precedents, we believe that this definition should be enlarged by the inclusion of an admonition to have regard to the special organizational features of both the civil service and its professional employees. It may be argued that such a phrase would be redundant but in practice all labour boards in Canada have shown a proclivity to think in simplistic dichotomies such as "plant" or "office" or "blue" or "white-collared" workers.

In connection with the word "dispute" defined in subparagraph (1), we believe that the opening phrase should be amplified by the addition of the word "apprehended" to read "means a dispute or difference or an apprehended

dispute or difference. . . ." In subsection (vii) of subparagraph (m) reference to a person employed in a managerial capacity should be enlarged to read "a person employed in a managerial capacity, on behalf of the employer." This would reconcile the definition with the right of managerial employees to elect to be members, with qualification, of any employee organization which may accept their membership. We further believe that an extra clause should be added at this point to state that no person shall cease to be an employee within the meaning of this act by reason only of his ceasing to work as the result of a strike contemplated by this act or by reason only of dismissal contrary to this act.

In referring to occupational categories in subparagraph (r), we note that the executive category has been completely omitted. We do not believe that any complete category should be totally exempt from collective bargaining, but rather that exemption should be on an individual employee basis. This becomes even more significant when it is realized that the present procedure for the allocation of employees to categories is, in effect, a unilateral decision by the employer.

The Professional Institute has significant reservation about the definition of "person employed in a managerial capacity" contained in subparagraph (u). In subsection (i), the institute prefers the phraseology employed in the Heeney Report in referring to a person who is "employed in a position confidential to and directly under the Governor General, a Minister of the crown, et cetera." In subsection (ii), we believe that the reference to a legal officer in the Department of Justice should be amplified by the addition of the following words:

And whose assigned duties calls him to be directly involved on behalf of the employer in the process of collective bargaining and/or is required on behalf of the employer by reason of his assigned duties and responsibilities to deal formally with the dispute or grievance under the act.

We further believe that subsection (iii) should be amended to read "who has senior executive duties and responsibilities in relation to the development and administration of government financial or personnel programs." Again in subsection (v) we recommend the following wording:

Who is required by and on behalf of the employer and by reason of his assigned duties and responsibilities to represent and act formally for the employer, in matters relating to his own bargaining unit, at any of the last two levels of the grievance procedure and/or before the adjudication board or an adjudicator and/or before the board.

It is our belief that the use of the term "confidential to" in this section of the act needs further clarification. This again is a term around which jurisprudence has been created which cannot be fairly applied to the public service position. For example, the Canada Labour Relations Board has held that access to any information which might, by any stretch of the imagination, be of value to a union creates confidentiality. The implication of such a definition amongst the Professional Public Service is, of course, obvious.

We believe that the definition in subsection (vii) is far too general and would suggest that it be re-worded to read:

Who is not otherwise described in subparagraph (iii), (iv), (v) and (vi), but for whom membership in a bargaining unit would create a clear and irreducible conflict of interest by reason of his assigned duties and responsibilities to the employer when acting for and on behalf of the employer.

In connection with the application of the act as defined in paragraph 5, the institute believes that the powers of the Governor in Council to delete the name of any portion of the public service from Part 1 or Part 2 of Schedule A should be subject to the recommendation of the Public Service Staff Relations Board.

Moving on to the question of basic rights and prohibition covered by paragraph 6 of the proposed legislation, the Professional Institute believes that it would be advisable to clarify the position of public servants who may be defined as in managerial positions with regard to membership in the Professional Institute. In this connection, we would stress the fact that the Professional Institute is involved in areas of activity far wider than those of collective bargaining on behalf of its members and that membership therein has many implications other than that of representation under the proposed legislation. We would, therefore, suggest that paragraph 6 should be amplified by the addition of the following subparagraph:

- (a) No person employed in a managerial capacity whether or not he acts on behalf of the employer may be prevented under this act from belonging to any employee organization and participating in the activities thereof. A person described in paragraph 2, section (u) if he holds any form of membership in an employee organization shall not be elected to any office or position in that organization or continue to hold, accept or retain any office or position in that organization where the duties of the office or the position require or subject or expose such person to be involved for or on behalf of the organization in the following processes; dealing with a dispute, collective bargaining, conciliation, grievance procedures or adjudication.
- (b) A person described in section 2, paragraph (u) shall not participate in and shall abstain from any vote taken by the officers and/or the membership of the organization when such a vote deals directly with the above mentioned processes. A person employed in a managerial capacity, whether or not he acts for and on behalf of the employer, shall not contravene this act if he conforms to subparagraph (a) and (b).

Paragraph 7 states that nothing in the act shall be construed to effect the right or authority of the employer to classify positions in the public service and to assign duties to employees. It is the belief of the Professional Institute that the exclusion of bargaining agents from any rights in connection with the classification of positions and the assignment of duties to employees must be objected to on the grounds that the effect of a contract could readily be defeated by subsequent reclassification and re-assignment of duties to employees during the duration of the contract. As presently worded this very

sweeping section could have the further effect of causing the employer to limit the application of the act, especially during the grievance or adjudication process. As a minimum modification, we therefore recommend that the words "subject to the provisions of this act" should be added immediately prior to the words "classify the positions therein and to assign duties to employees."

The prohibitions contained in paragraph 8 of the legislation are again extremely wide and general, and it is the belief of the Professional Institute that significant clarification and further definition is required in this area. We believe that subparagraph 1 should be amended by the deletion of the words "whether or not" and the substitution in their place of the word "and." The preamble to subparagraph 2 should similarly be amended to read "No person acting on behalf of the employer and no employer shall, et cetera."

The institute is concerned with the presence of the words "or proposed to be employed in a managerial capacity" at the end of subsection 2 of paragraph 8. The retention of these words in the act would open a clear path for any person in management to cajole or threaten any employee on the pretext that at some time or other in the future, he or she is likely to be promoted. The Professional Institute has reservations as to the requirement for the rigid exclusions implied in subparagraph 3 of paragraph 8 and again in paragraph 10. It is felt that the obligations of the employer should not appear to be limited by such instances and that the problems of the use of billboards, meeting rooms, paid time of employees and the canvassing of employees, et cetera, should be left for discussion at the bargaining table. In making this particular comment, the institute recognizes that a great deal of case law has developed which precludes from certification those unions which have received employer support and that permission to use company meeting rooms has continually resulted in disqualification of unions. Indeed, it is a safe generalization to say that anything beyond the use of bulletin boards has had this effect, but we doubt whether, in the circumstances of the public service, these rigid adherences to the requirements of industrial practice are really necessary.

Moving on to Part 1 of the proposed legislation dealing with the Public Service Staff Relations Board, it is suggested that paragraph 11(1) should require both the appointment and maintenance of the board membership to be on a basis of equality as between representatives of the interests of employer and employees respectively. The Professional Institute is concerned to note that no provisions are made for insuring that members of the board appointed as being representative of the interests of employees are, in fact, so representative. Furthermore, the legislation does not provide for a means of determining that the chairman and vice chairman are acceptable to both sides. To this end, we would suggest that paragraph 11, subparagraph 2, should be amended by the addition of the words "after consultation with the official side and the staff side of the National Joint Council and shall" immediately after the words "shall be appointed by the Governor-in-Council."

Similarly we believe that subparagraph 3 should be amended to state that each of the other members of the board appointed to represent the interests of the employees shall be drawn from a panel of not less than six and not more than twelve names nominated by a majority decision of the staff side of the

National Joint Council, and that they shall hold office during good behaviour for such period not exceeding seven years as may be determined by the Governor in Council.

In connection with the head office and meetings of the board as dealt with in paragraph 16, we believe that the division of the board as defined in subparagraph 2(b) should always contain an equal number of members representative of the two sides.

The authority contained in paragraph 19 for the board to make regulations of general application is welcomed, but the institute believes that a section should be included requiring or permitting consultations with the staff association in the promulgation of these rules. This viewpoint is based on the facts that, while the regulations will doubtlessly embody the results of case law already established, there are variations in the existing law, there is a necessity for a continual change in rules (albeit slow) and finally, existing rules were developed against industrial union-management background.

Paragraph 22, subparagraph (e) limits the right of the board to enter any premises of the employer where work is being done if such entry is defined by the Governor in Council as being contrary to the interests of defence or security. This section, we believe, is unduly restrictive and it is difficult to imagine a practical situation where a member of the board with appropriate security clearance should not be permitted to enter an establishment and study the work of an employee under the traditional "need to know" criteria of security operations. On the other hand, in this subparagraph we have doubts as to the real requirement for members of the board to "interrogate any person respecting any matter." We feel that the right of interrogation should be limited to matters pertaining to the scope of the legislation.

Paragraph 23 has 19th century overtones which the institute believes to be somewhat unnecessary. As it stands, questions of law being numberless and questions of jurisdiction completely vague, the processes covered by this act could grind to a standstill if it were applied literally. In most cases such questions can be answered quickly by the person in charge of the hearing. There should be, however, the possibility of some inter-relationship at the discretion of the persons holding the hearings and we, therefore, propose that this section be changed from a mandatory to a permissive clause.

Moving next to Part 2 of the legislation concerning collective bargaining and collective agreements, the Professional Institute would suggest certain amendments to paragraph 26. In the case of subparagraph 2, we believe that the requirement for a minimum of 60 days notice concerning the specification and definition of the occupational groups is unduly restrictive on the activities of staff associations, and we would suggest that this should at least revert to the 90 days suggested in the preparatory committee report. In the case of subparagraphs 2 and 3 we do not believe that separate employers should be exempted from the general requirement concerning the definition of occupational categories and units.

We suggest that there is a case for the addition of a new subparagraph 4 stating:

With respect to any portion of the public service which would come under Part I of Schedule A of the act but for the fact that it has been

specified in Part 2 of Schedule A or that it comes under Part I of the Industrial Relations and Disputes Investigation Act, the board may receive requests in writing from an employee organization or a council thereof or from the employer or from a separate employer that this portion of the public service be subject to the act and included under Part I of Schedule A. The party making the request shall specify in the notice to the board the occupational groups which would become eligible for collective bargaining under the act. The board shall proceed immediately to hear the parties and review the request under Section 18 and within 90 days of the receipt of the notice shall transmit to the Governor in Council the full record, including notices, objections, summary of evidence and findings and its own recommendations as to the disposal of the request.

Paragraphs 32 and 33 deal with the determination of appropriate bargaining units, and here again the Professional Institute would recommend certain amendments to the legislation as presently drafted. Subparagraph 2 of paragraph 32 makes it quite clear that the duties and classification of the employees in the proposed bargaining unit are factors relevant to the constitution of such a unit. This further strengthens the case which was made at an earlier stage in this brief against bargaining agents being specifically excluded from the consideration of matters involving classification. We believe that classification must be a subject amenable to the full range of collective bargaining procedures.

In subparagraph 3, paragraph 32, the institute recommends the deletion of the words "or whose duties or responsibilities are such that in the opinion of the board his inclusion in the bargaining unit as a member thereof would not be appropriate or advisable." We believe this wording to be of dubious value and contrary to the desirable concept that the board should always follow clear cut criteria.

In paragraph 33, the institute has decided reservations about the appropriateness of the board acting as the determining agent in questions involving the inclusion or otherwise of employees or classes of employees in an already defined bargaining unit. It is our view that once the bargaining unit has been clearly defined it is a question of law for the parties. This question would seem to fall clearly and largely within the ambit of the adjudication procedure. It would otherwise be possible for conflicting organizations and even for the employer to disturb the actually defined unit before, during and after negotiations. It could in effect amount to a revocation or partial revocation of certification of employees without regard to the processes and procedures laid down in paragraphs 41 and/or 32.

On the question of certification as dealt with in paragraph 35 of the bill, the institute suggests that, having regard to the fact that certification is the only thing in question at this stage subsection 1(a) and the first part of 1(b) together with a new paragraph to read "make or cause to be made such examination of membership records as seems necessary" might be considered sufficient to safeguard the determination of the representative character of the organization and/or its officers. The remaining portion of subsection (b) and subsections (c)

and (d) might reasonably be eliminated and the responsibility for managing their own internal affairs in a democratic manner be left to the members of the staff association.

In the case of subparagraph 5 of paragraph 38, the institute would suggest the following re-wording to follow "section 37":

"If another employee organization is certified after that period, the board shall record as part of such certification the process for resolution of a dispute as provided in paragraph 36 and paragraph 37 that shall apply to that newly certified organization. However, the formal process of resolution of a dispute shall continue to apply to the bargaining unit until proper notice is given to commence bargaining collectively under paragraph 49. If the same organization of employees continues to be certified for the bargaining unit after that period, the board shall not alter the existing process for resolution of the dispute unless

- (i) where a collective agreement or an arbitral award is in force, within the period of two months before the agreement or award ceases to operate or is to be reviewed
- (ii) the board shall not record an alteration of the existing process once the bargaining agent has notified the employer under section 49.

Paragraph 41 deals with the revocation of certification on application and the institute would suggest that in subparagraph 1 the words "any person" be deleted and replaced by "any organization of employees." Our belief is that the law should avoid the interference of individuals as such whatever their representative claims.

The institute has one comment relative to that portion of the act dealing with negotiation of collective agreements and particularly the notice to bargain collectively, and this pertains to paragraph 52. We suggest that this section might be deleted in its entirety as situations may well arise where there is a need to negotiate with management at any time. Many aspects of the conditions of employment could change during the term of a collective agreement, and it is at this point that bargaining with management should be possible. As an example, the introduction of automation in the second month of a two year agreement could mean that for 20 months, management could legally avoid discussing the impact of this development on the employees with inevitable repercussions in terms of morale and efficiency. It would seem obvious that this should immediately become a negotiable item as should any item not covered in an existing agreement and, even in this latter case, subject to a test of reasonableness, such matters should be open for discussion.

Paragraph 53 deals with the conciliation procedure. Here perhaps it should be stated that while the Professional Institute does not formally oppose the inclusion of a conciliation process in this legislation, it has very real doubts as to the significance or usefulness of such a process in the civil service as opposed to the industrial arena. In all events, we feel that there must be adequate safeguards against any attempt to use the conciliation process as a delaying tactic. To this end, we believe that a request for conciliation should only be acted upon if it is made by both parties. We furthermore believe that the conciliator should be appointed by the board and not by the chairman alone.

Similarly, we believe that paragraph 54 should be amended to provide that if a conciliator, within 14 days from the date of his appointment, is unable to report success the extension of his functions should only be made by the chairman on the joint request of the two parties.

Paragraph 56 deals with the provisions of collective agreements and the Professional Institute questions the desirability of the absolute bar against inclusion in collective agreements of matters which are presently governed by independent legislation. To this end, it is suggested that subparagraph 2 of paragraph 56 should be re-worded along the following lines:

Subject to the overriding authority of Parliament, the Governor in Council will give effect to the provisions of a collective agreement entered into by the parties under this act and will, therefore, if necessary request Her Majesty in right of Canada to submit to Parliament any legislation or amendments to any existing legislation which may be required to give effect to a collective agreement under this act. Any clause in a collective agreement the implication of which would, except for the appropriation of money by Parliament, require the enactment or amendment of any legislation by Parliament binds the employer, but will become operative on both parties 30 days from the date of the approval of the law to that effect.

Paragraph 57 deals with the duration and effect of collective agreements. The Professional Institute suggests that subparagraph 3 might be unduly restrictive with regard to the length of initial and subsequent agreements. This is particularly significant under conditions where three-year agreements are now becoming standard practice in many areas. To this end, it is suggested that the following re-wording of paragraph 3 is worthy of consideration:

The first collective agreement or award entered into after the date fixed under subsection 1 of section 26 shall not extend over a period of more than three years if it is entered into within the period of a year from the above mentioned date and notwithstanding any terms to the contrary will terminate at that time. The term of a collective agreement or award will be reduced by an exact number of months if it is entered into after a period of a year from that date so that no first collective agreement may extend beyond 48 months from the date mentioned above.

Part 3 of the bill deals with the provisions applicable to the resolution of disputes and in the opening paragraph, number 59, it would seem that there might well be grounds for questioning the desirability of including the very vague concept of "good faith" as a criteria for determining the effectiveness of bargaining prior to the invocation of further procedures for the resolution of disputes. While this term has a great deal of ritualistic significance in industrial labour-management relations, there is growing doubt as to whether or not it is capable of effective definition and whether it is a truly meaningful yardstick.

The processes of arbitration are dealt with in paragraph 60 and subsequent paragraphs and the main comment of the institute on this section concerns the selection and appointment of members to the Public Service Arbitration

Tribunal. To this end, we suggest that the following should be added to the end of subparagraph (1) of paragraph 60:

Each of the members of the panel appointed to represent the interest of the employees shall be drawn from a list of not less than four and not more than eight names actually nominated by a majority decision of the staff side of the National Joint Council.

Similarly, subparagraph (2) might open with the following words:

The board shall consult with the official side and the staff side of the National Joint Council concerning the appointment of the Chairman and the alternate chairman of the arbitration tribunal.

The question of the true relevance of the words "good faith" also arises in connection with paragraph 63.

Paragraph 70 deals with the subject matter of arbitral awards. The Professional Institute believes that the limitations proposed in subparagraph (3) on the scope of such awards are altogether too restrictive. As the bill is presently drafted staff associations choosing the arbitration technique for the solution of residual disputes would be placed in a significantly more difficult position than those choosing the line of more militant action. The institute doubts whether this situation is desirable from any viewpoint. We would accordingly recommend that paragraph 70 should be re-written in the following terms; subparagraph (1):

Subject to this section an arbitral award may deal with any term or condition of employment that could be referred to a conciliation board if the employee organization had so elected under section 36 of this act.

Subparagraph (2):

No arbitral award shall deal with any terms and conditions of employment that could not be the terms and conditions of employment agreed to by the parties through a collective agreement signed under this act.

It will be noted that the proposed revision excludes the provision in subparagraph (4) of the existing paragraph 70 which seeks to prevent the publication of reasons or material for informational purposes relevant to an arbitral award. We believe that in some cases general comments by the writers of the award have an instructional value in their administration and should not be barred by legislation.

In accordance with the institute's views on the essential scope of arbitral awards, we would also recommend that the first three lines of paragraph 74 be replaced by the following "Terms and conditions of employment that are the subject of an arbitral award, et cetera."

The subject of conciliation is dealt with in paragraphs 77 to 89 of the draft legislation and the Professional Institute proposes certain minor amendments. In order that there may not be any possibility of conciliation being looked upon as a delaying procedure, it would seem advisable to modify subparagraph 1(b) of paragraph 78 to read "both parties having requested the establishment of a conciliation board the chairman shall, within 7 days of the receipt of such notice in writing, establish a conciliation board, etc." Again, in accordance with the

institute's belief that all processes for the resolution of disputes should be equally effective, we would recommend that subparagraph (3) of paragraph 86 which limits the contents of the report of a conciliation board should be deleted.

Part 4 of the legislation concerns grievance procedure. Subparagraph (3) of paragraph 90 states that an employee who is not included in a bargaining unit for which an employee organization has been certified as bargaining agent may seek the assistance of and, if he chooses, may be represented by an employee organization in the presentation or reference to adjudication of a grievance. The Professional Institute is unable to agree with the implications of this provision which would seem to permit an employee to make unilateral demands on the services of an association of which he may not even be a member for assistance and representation during a grievance procedure. We believe that this subparagraph should be amended to read in part "may be represented by an employee organization of which he is a member in the presentation or reference to adjudication of a grievance."

Subsection (b) of subparagraph (2), paragraph 94, as presently written, would appear to provide the employer with a veto against the establishment of a Board of Adjudication. The institute believes that the chief adjudicator should be able to override the employer's objection and still appoint a board of adjudication if, after consideration of the facts, he considers this to be a desirable procedure.

Subparagraph (2) of paragraph 97 dealing with the expenses of adjudication would appear to place the responsibility for the costs of adjudication on the person whose grievance is involved whatever the outcome of the investigation. If a grievance is eventually upheld it is the belief of the institute that the employer should carry responsibility for any payments which may be involved and that this subparagraph should be amended accordingly.

The institute does not believe that a satisfactory grievance procedure can be based on the unilateral right of the employer to designate the person whose decision on a grievance constitutes the final or any level in the grievance procedure, and we would accordingly propose that subparagraph (2) of paragraph 99 should be re-written as follows:

If both parties cannot agree on the persons or the levels to be designated as constituting the final or any level in the grievance procedure, the board will, upon receipt of a notice in writing by either party that such a person or level has not been designated, designate that person and/or level.

Part 5 of the legislation covers residual general matters. Paragraph 102 extends the liability for calling, authorizing, etc., illegal strikes to situations where strikes would be likely to occur. This is contrary to usual labour legislation and common sense, buttressed by general practice, would indicate that these particular phrases might well be omitted from the legislation.

Finally, with regard to the schedules, we believe that consideration should be given to including the Farm Credit Corporation and the National Harbours Board in either Part 1 or Part 2 of Schedule A as may be most appropriate.

The JOINT CHAIRMAN (*Mr. Richard*): Is that all, Mr. Barnes, on Bill C-170?
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Mr. BARNES: That is all, Mr. Chairman, on Bill C-170. We also have a brief on Bill C-181.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Mazerall will present the brief on Bill C-181.

Mr. J. F. Mazerall, President, Professional Institute of the Public Service of Canada: Mr. Chairman and hon. members, the Professional Institute welcomes this opportunity to comment on the proposed legislation in Bill C-181 respecting employment in the public service of Canada.

In essence the Institute welcomes the new development under which the chief functions of the Civil Service Commission, henceforth to be known as the Public Service Commission, will be those related to the implementation and safeguarding of the merit system. We believe that the establishment of a clear and effective division between the control of those functions which are involved with the maintenance of the merit system on the one hand, and those which are concerned with the development and implementation of matters falling within the ambit of collective bargaining on the other hand, is essential. The fact that this provision will now be made by means of the proposed legislation, in conjunction with that in Bill C-170 will, we feel, be a matter of satisfaction to all concerned.

In studying the general philosophies embodied in Bill C-181, attention must inevitably centre around the numerous provisions made for the Public Service Commission to delegate its functions and authorities to the departmental level. This trend is not, of course, a new development and both the advantages and dangers associated with it have become increasingly clear in recent years. In April 1961, the Professional Institute had the honour of presenting a brief to the special committee established by the House of Commons to consider the existing Civil Service Act. In commenting on the presently proposed legislation, we feel that we should repeat the words which we used five years ago. Referring to the trend toward the delegation or transfer of authority from the Civil Service Commission to deputy heads in matters concerning personnel selection, establishments, et cetera, as proposed at that time, we said:

The Professional Institute believes that certain rearrangements along the lines indicated could well result in increased efficiency and therefore welcomes the proposals from this viewpoint. It has, however, become increasingly apparent to the institute over the years that even the existing degree of local autonomy within and between departments has markedly affected conditions of employment. It is felt that any further decentralization of authority in the fields of personnel management must be accompanied by a system of monitoring and control which is more effective than that presently existing. Lacking such a system, the advantages of increased departmental initiative could be negated by damage to morale and even to the merit system itself.

The experience of the Professional Institute in the five years which have elapsed since these words were written has been more than sufficient to justify our view that decentralization of authority and effective monitoring must grow together. As simple examples of the developments which we have in mind, it has been observed that open competitions have been held to fill vacancies when the availability of adequately qualified employees within the service has been

demonstrated by the fact that civil servants have won the competition. Similarly, classifications which fail to represent current job requirements have been retained for departmental convenience and other classifications have sometimes borne but little relationship to the professional nature of the jobs in question. We have some doubts as to whether the present legislation contains the necessary means of guaranteeing the effectiveness of the essential control system.

Another aspect of the question of decentralization which has long been of concern to the institute involves the importance of maintaining a service-wide career potential for professional employees. This problem was dealt with in our 1961 brief and the similarity of the problem today is such that we cannot do better than to quote from the statement which we made at that time:

The possibility of the selection functions of the Civil Service Commission being performed on a departmental basis is an example of the delegation of powers which could offer advantages in terms of rapidity of action. On the other hand, effective monitoring would be essential to ensure that local departmental convenience did not limit the possibilities of career development and advancement in the service as a whole. In limited professional fields any attempt to restrict selection to small units would ultimately be very undesirable from the viewpoints of both the service and the employees.

The scope provided by the proposed legislation when viewed against the background of experience in the last five years again underlines the importance of ensuring that departmental convenience does not become an overriding factor in the operation of the staffing system. Generally then, it is the considered opinion of the Professional Institute that the new legislation should require the Public Service Commission to satisfy itself, both regularly and effectively, that all those to whom it may delegate authority exercise their powers in strict accord with the requirements of the merit system and the principles embodied in the legislation.

It may be argued that the bill as presently written provides the Public Service Commission with authority to safeguard its delegated powers. This fact the institute accepts, but being realistic, and having had nearly half a century of experience of the variations in interpretation and application which can result from broadly permissive or general directives of this nature, the Professional Institute believes that the act which ultimately reaches the statute book should be stronger and more precise in its requirements in this vital area. Certainly the merit system would not be damaged by such strengthening of the requirements and there may well come a day when its effective protection might depend on some clearer statutory requirements.

In commenting on certain more specific points of the legislation, the Professional Institute suggests that the Committee may care to give further consideration to the following:

Paragraph 6(2): The institute supports the right of the commission to rectify an erroneous appointment made as a result of delegated authority, but we suggest that the employee concerned should have the opportunity of presenting his case through a formal appeal procedure in which he might be appropriately represented. We also believe it relevant to note that while the employee concerned may well be reappointed at a

lower level or discharged as a result of a department's inefficiency or abuse of delegated powers, there is no apparent provision for an automatic review of the department's role in the development of the situation.

Paragraph 11: The Professional Institute doubts whether the commission should be authorized to delegate to departments the right to determine "the best interests of the public service" in so far as they relate to making appointments from outside the service. During recent years the institute has been concerned about a growing tendency towards recruiting professional personnel through open public competitions for intermediate and senior vacancies in the service. While the influx of new blood is obviously highly desirable, the open competition system can tend to become an attractive alternative to the normal internal promotion competition in departmental esteem due to factors such as the absence of an appeal procedure and more rapid action than that which normally results from the holding of a series of promotion competitions.

Paragraph 21: The institute believes that this paragraph should contain provisions which will ensure that unsuccessful candidates in a closed competition, or persons whose opportunities for advancement have been prejudicially affected by promotions without competition, are advised by the commission of the outcome of any such competition or promotion and informed of their rights to appeal. As the paragraph presently stands there is no assurance that the persons concerned would become aware of the situation within the time limit prescribed for the receipt of appeals. We further believe that the paragraph should contain specific authority for appellants to be represented by the staff association of which they may be a member during all appeal procedures. We suggest that a case also exists for ensuring that the commission does not delegate to departments the procedure for notifying unsuccessful candidates, particularly in the case of promotions without competition. As was mentioned in our opening statement, we have reservations concerning the effect on over-all career prospects for professionals in the public service unless adequate steps are taken to ensure that promotion opportunities are made available within the service without undue consideration being given to departmental boundaries.

Paragraph 45: The Professional Institute believes that it would be desirable for the annual report of the Public Service Commission to contain a statement listing all appointments made from outside the public service without open public competition.

In conclusion the Professional Institute desires to reiterate its belief in the fundamental importance of the merit system of appointment and promotion as the keystone of the internationally recognized quality of the professional public service of Canada. We are accordingly most appreciative of having been provided with this opportunity of placing before honourable members of this Committee our thoughts on methods of further safeguarding and developing this great concept within the framework of a public service constantly attuned to the needs of its day and generation.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Mazerall. On behalf of the Committee, I am sure everyone would like to tell you that we appreciate the presentation of such an excellent and professional brief. I am sure we will have an opportunity at a later date, after having studied these briefs, to ask you to come back before us if the members of the Committee wish to question you, which no doubt they will. Thank you.

(*Translation*)

Gentlemen, we have here a rather short brief submitted by L'Association des Fonctionnaires Fédéraux d'Expression française, and I thought that perhaps we might hear it read before adjourning the meeting this afternoon.

Mr. LACHANCE: How many pages?

The JOINT CHAIRMAN (*Mr. Richard*): Three pages. The representative, Mr. Croteau.

(*English*)

We have the translation from French to English.

(*Translation*)

Unfortunately, it was not possible to obtain the services of an interpreter from English to French. There are so many committees sitting this afternoon that it was impossible to satisfy everyone's needs. Mr. Croteau, if you please.

Mr. CROTEAU (*Vice-President, l'Association des Fonctionnaires Fédéraux d'Expression Française*): Mr. Chairman, members of the Committee, I thank you for the opportunity that you are giving me to present the brief of the Association des Fonctionnaires Fédéraux d'Expression Française. I would like to make an observation as to the nature of this association. It is an association which represents French-speaking public servants and which, according to its charter, is designed to promote their development within the federal Public Service. It has existed for the past two years.

The brief which it is now giving the Joint Committee on the Public Service in Canada refers to a restriction contained in paragraph 2 of Clause 16. The brief is being submitted to members of the Committee in order to stress some consequences of the restriction contained in paragraph 2 of Clause 16 of Bill 181, that is an Act respecting employment in the Public Service of Canada.

Article 16 and the aforementioned restriction are, respectively, in so far as sub-paragraph 2, an examination, test or interview under this section shall be conducted in the English or French language or both at the option of the candidate except where an examination, test or interview is conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of either or both languages. And the restriction is—and I quote—"except where an examination test or interview is conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of either or both those languages."

Our association is convinced that the present form of paragraph 2 will, in practice, invalidate (a) *The right of a candidate to be evaluated in the language of his choice*. This is especially important to the French-speaking candidate. The rating of this candidate's English language proficiency should not degenerate into using English exclusively in conducting the examination, test or interview. This basic right of the unilingual candidate—this applies both to the candidate who speaks English only and to the candidate who speaks French only—has been recognized and granted in practice only very recently.

(b) The provisions of paragraph 2, will in fact, invalidate the practice which had been established of evaluating a candidate using a board. The majority of whose members are fluent in the language that the candidate requested for the examination of his application form.

The negation of this practice which was recently adopted is a return to the previous procedure. This procedure resulted in decreasing the presence of French-speaking public servants in the Federal Public Service. It was recently adopted and has been a true progress in so far as the association is concerned. The preceding remarks take on their full impact within the context of a federal administration supposedly committed to the two official languages of Canada. The right of the candidate to be evaluated in the language of his choice results in the need to recruit or train qualified bilingual personnel available for sitting on boards. Without this powerful stimulant for the daily use of the two official languages, it will be impossible to have dynamic bilingualism and biculturalism in the Federal Public Service. Consequently, our Association would like to suggest the following. First of all, the removal of the restriction contained in the last part of paragraph 2, Article 16, Bill C-181; that is "except where an examination, test or interview is conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of either or both of those languages".

The Association would also like to suggest that you consider the adoption of the remaining part of the revised paragraph 2, Article 16, Bill C-181; that is, "an examination, test or interview under this Section shall be conducted in the English or French language or both, at the option of the candidate". The Association would also like to add a comment on paragraph 2. As suggested by the Association, it is, of course, exactly as the text which was contained previously and which still is in Chapter 57, that is, the Civil Service Act of Canada. The practice of the Civil Service Commission, that is, certain boards, of proposing an interpreter for French-speaking candidates so as to allow evaluation of the candidate, was carried on for a rather considerable time and was only recently abolished. We believe that this was a giant step forward, and secondly, the practice of giving a right to a board whose majority will be composed of the language of the candidate was another step forward, and the Association believes that the negation of both these rights by the restriction included in the Act will be a retrograde step in so far as the establishment of bilingualism and biculturalism in Canada is concerned. Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, Mr. Croteau.

(English)

I think it is in order now to suggest that someone move for the adjournment of this meeting until this evening at eight o'clock when we will hear a brief from the Civil Service Association who have indicated they are ready, and they have already submitted briefs to the members.

Gentlemen, this meeting is adjourned.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. We have representations made in a brief submitted by the Civil Service Association of Canada and I would ask the representatives to come forward, Mr. Gough and Mr. Doherty whom we saw recently on another bill on superannuation. How would you like to begin, Mr. Gough, in the order you have it on the Financial Administration Act?

Mr. T. F. GOUGH (*National President, Civil Service Association of Canada*): I think perhaps the bill in connection with the Public Service Staff Relations.

The JOINT CHAIRMAN (*Mr. Richard*): If you want to start with that, all right, sir.

That will be in the last part of the submission on your views, the Public Service Staff Relations Act by the Civil Service Association of Canada. Does everybody have a copy? This is the third brief in the booklet.

Mr. GOUGH:

The Association appreciates the opportunity of expressing its position with respect to the proposed Act now under examination. The Bill in general concept reflects our policy position adopted at National Conventions for many years, and although perhaps long aborning we are disposed to look to the future without regret for the past.

We would also wish to record our appreciation of the manner in which the Government has so scrupulously observed its commitment to the Public Service to provide a system of Collective Bargaining. It has clearly been the intent of Government not only to live up to the letter of its undertaking, but also the spirit. The fact that we shall critically examine this Bill should not be allowed to detract from our appreciation of its enlightened concept. In this regard we would also wish to note that the Bill in major part is due to the minute and exhaustive examination of the problem by the Preparatory Committee on Collective Bargaining for the Public Service, under the direction of the Chairman, Mr. Arnold Heeney. No Committee and Staff could have approached its task with more sympathy, responsibility and dedication. Anticipating, as we do, a satisfactory relationship under the Bill between Employer and Employee, this will be due in large measure to the work of this Committee.

As we have indicated, the Bill in concept does provide the climate necessary for the proper respect of employer and employee in a bargaining relationship. In certain detail, however, it is our view that the scales are not even. These in part lie in the area of administration, and in part, more seriously, in the area of definition. We are seriously concerned as to the effect of these considerations in the operation of the Act, and request

that this Committee give careful review to our recommendations. It would be a grave mistake at this point to load in any way the scales in favour of the employer.

Authority of Chairman

Public Service Staff Relations Board

In our consideration of this bill we have been mindful of the provisions in effect governing the labour relations boards, and particularly of federal legislation in this field. We have particularly examined the duties of the chairman of the Canada Labour Relations Board. This examination seemed necessary due to the somewhat extraordinary powers of the chairman of the public service staff relations board, in that it appeared that board members were, in major part, unnecessary.

The bill has been carefully examined to determine if there were elements in this measure affecting public servants that required difference in the powers of the chairman from those delineated for the Canada Labour Relations Board. We can determine no such elements. While there is naturally areas for judgment, the board is largely administrative. If this is a proper assessment of intent we see no reason for powers that provide for decision only by the chairman. On the contrary we see many cogent reasons why all decisions should be those of the Board.

We are not unmindful that in legislation governing labour relations in the private sector the Minister of Labour is the final authority and exercises single judgment. This, of course, is neither possible nor desirable in this Bill, but the concept has been carried forward and the Chairman is provided with the authority of the Minister. The need for such powers under this Act is strongly questioned.

We would draw your attention to those areas providing for the unilateral decision of the Chairman, which are of critical importance to employees. These control functions would tend to inhibit the proper development of bargaining, arbitration and conciliation. As has already been noted, the rationale for Board members is difficult to appreciate if many significant powers of decision reside unilaterally in the Chairman. All of this leaves the employee with a strong feeling that he is being short changed, and he is being denied full value of those Board members who are appointed in the "interests" of the employees (Section 11 (1) 1). Section 51 (b) (iii). Section 78.

These sections are interrelated and establishes the power of the Chairman to exercise judgment on whether or not a conciliation board should be established. This is a critical point in the bargaining, and a refusal to appoint a board would accelerate a strike. Undoubtedly there could be occasion when one side will refuse to be moved and abortive conciliation will only delay the issue. It is still a delicate area for judgment, and it is our view that this should be a Board decision.

Section 75. As with Section 65 the Chairman may only be required to act on a matter of fact. However, in Section 75 the issue is neither obvious nor clearly delineated, in that it "appears" to the Chairman. Once again we believe it would be the part of wisdom to bring more than

one mind to bear on the issue, and we therefore recommend this be a Board decision.

Section 80 (2) (3). This section provides that if either or both parties to a dispute fail to nominate a conciliation board member, the Chairman shall appoint a member. It is our view that a valuable contribution could be made in such a choice by other members of the Board. We recommend that this subsection be amended accordingly.

Section 83. The powers conferred by this section are fraught with the possibility of error or misjudgment, and again, should not be a matter for unilateral decisions. This is surely not a routine matter, where there would be no purpose or value in consultation with members of the Board. We repeat therefore our fundamental position, that where there is value in consultation, power should reside in the board.

Section 86 (1) (4). It is not clear in sub-section (1) as to whether the Chairman steps into a vacuum, or whether he exercises the final judgment on possible extension of the period provided for a Conciliation Board to produce its report. In any event, appraisal of the findings of a Conciliation Board should be the responsibility of the Staff Relations Board, with authority only to seek clarification.

We cannot stress too strongly that areas for unilateral decision are undesirable, with the Chairman becoming so dominant as to render Board members relatively ineffective. Even if we may assume that a wise Chairman would seldom act unilaterally, such authority cannot but weaken the concept of the Board as an entity. We must repeat that we can determine no cogent or overriding argument for areas for unilateral decision.

We recommend that all sections and sub-sections providing for unilateral decision by the Chairman be so amended as to provide for authority to reside in the Board.

Appointment of Chairman and Certain Board Members

Section 11.

We suggest that it is of the utmost importance that the Chairman be acceptable to both employer and employees. The early years of the new system will no doubt be ones of some stress and strain, and this will require a Chairman who has the confidence of both parties. While it could very well be that this government has every intention of consulting staff organizations on a suitable appointment, there is no continuing certainty of such consultation. It is our opinion that in a position that requires the impartial adjudication of events, both sides should have an official voice in the selection of the incumbent.

We find it strange that in the provision for appointment of Board members the concept of sovereignty is maintained. It is obviously inconceivable that a Board member appointed as "being representative of the interest of the employees," should be so designated without the recommendation of employees.

We also wonder at the differing terms of office and the provisions for removal for cause. Continuity of experience for Board members

is a matter of importance and we therefore cannot approve the difference in period as between the Chairman, Vice Chairman, and Board members.

It is recommended that Section 11 be amended where necessary to provide the following:

- (a) That the Chairman be appointed after consultation with recognized employee organizations.
- (b) The Board members appointed as being representative of the employees' interest be so appointed on nomination by recognized staff associations who are members of the National Joint Council.
- (c) That the initial terms of appointment be for five years for all without exception.

That cause for removal for all, Chairman, Vice Chairman, and members shall be by joint address of the Senate and the House of Commons.

Membership in Employee Organization

Membership in the organizations of the Public Service of Canada has traditionally been open to any Public Servant, up to and including the rank of Assistant Deputy Minister. As a result, the organizational pattern in the Public Service has not been restricted as in private industry, consequent of the recently developed labour legislation. All levels of officers have and do belong to staff organizations, and so participate in the various benefits arising from such membership. These may range from salary adjustment consequent of organization activity to participation in insurance plans.

We are greatly concerned with the present sections of the Bill which provide for exclusion from the bargaining unit. This is undoubtedly the most fruitful area for conflict between the employer and employees, since any tendency to apply a narrow interpretation would bring the strongest possible reaction. In this regard we would draw your special attention to sub-section (u) (vii) of Section 2 as a clause which could decimate membership in many staff organizations to a corporal's guard. It must be said quite clearly and categorically that in this matter we are not prepared to take anything on faith, as the issue is too fundamental.

Having stated our firm position let it then be said that insofar as "participation" in the bargaining unit is concerned, we freely recognize that there must be exclusions under the broad definition of management. However, management in the Public Service can conceivably be much wider than is the case in the private sector. This in part is due to the traditional nature of the service, and in part due to the fact that much of the service falls more naturally under the category of office rather than plant employees.

Whole classes of employees could be excluded, as for example, Postmasters of any grade; Managers of Employment Offices; Officers in charge of Radio Stations; Clerical employees level 3 and up. Under the provisions of subsection (u) (vii) Section 2 there are many others that

could be excluded, and unless the Bill is amended there will be the most prolonged argument when the first groups become subject to bargaining.

As has been indicated, we recognize the right to exclusions from "participation" of certain employees, but not the right to exclude from membership in the bargaining unit. All employees benefit in collective bargaining, and present membership should not lose present direct benefits, such as participation in insurance plans. It may also be noted that, under present provisions, subsection 3, of Section 90, one excluded from the bargaining unit, of presumably any rank, may seek and use the services of an employee organization in the processing of a grievance.

We therefore recommend that the Bill be amended, in Section 2, so as to provide for membership in a staff organization, of those excluded from the bargaining unit. And that these employees be prohibited from any manner of participation in matters concerning collective bargaining. We would further recommend that homogeneous groups of supervisory officers, such as Postal Officers, be given the full rights of the Act for collective bargaining.

Further Views

Section 2 (m) (v).

In the past, certain administrations, due to establishment restrictions, have retained casual or temporary employees indefinitely. By the device of breaking service periodically they have maintained the necessary work force. This constitutes an obvious injustice, in that little of the normal privilege is provided for these so called temporaries. In other cases the positions have been seasonal, in that the same employees have been hired every year, but in succeeding years there was no carry-over of credits.

It is our view that if such practices are to continue the section should be amended, so as to provide that those who have continued service broken only by involuntary periods of lay-off shall be eligible to belong to the appropriate bargaining unit.

Section 2 (t) (ii).

This section makes no provision for the bargaining agent to be defined as a "party" in the grievance procedure. Since it is clear that there will be such participation we suggest "parties" should be defined as "the employer and the employee or his organization."

Section 2 (u) (v).

In the present absence of a formal step by step grievance procedure we can only assume that this section would deem the immediate supervisor as one who deals formally with a grievance. If this assumption is correct it serves to bear out our disquiet of the many low level positions that are encompassed by the phrase "persons employed in a managerial capacity." If we should be wrong it points to the urgent need for clarification and amendment. This is too serious and fundamental a matter to be left for Regulations.

Section 2 (u) (vi).

Once again we feel that the provision can be subject of too broad an interpretation. We would welcome official assurance that this subsection would not be used to exclude many employees who are privy to the processing of a grievance, but who are not particularly or immediately involved.

Section 19 (1) (b).

The Board has the authority to determine "units of employees appropriate for collective bargaining." This authority, however, is absolute and not subject to any appeal. This would seem undesirable as cases will no doubt arise where the matter is in dispute. In the absence of a logical authority to consider any appeal we make no concrete proposal. The possibility of hearings before the Canada Labour Relations Board may be considered.

Section 19 (2).

Certain Regulations may be considered as restrictive or unfair, and as is the case in the previously noted sub-section, there is no provision for appeal. In this case the appropriate appeal authority might be the Governor in Council.

Section 23.

This section provides that the Board shall determine questions of law or jurisdiction. In the event that there is no lawyer on the Board we would have to question the competence of the Board to adjudicate. Otherwise we would suggest that a definite time limit be set for the consideration.

Section 28 (2) (b).

We must express some concern at what appears to be "big brother" legislation. It appears that no such special control has been found necessary in the private sector, where the Council concept is not unknown. The greatest protection to all concerned lies in the need to maintain certification once granted. Unless the Council produces results it will not retain the confidence of its members. It would only be a matter of time before another organization replaced the unsatisfactory organization. The Canada Labour Relations Board does regulate, but in a relatively limited area. Certified Councils will be formed from responsible organizations, who we believe will continue to be responsible, and fully capable of policing its operation.

Section 32 (4).

We are not clear on this sub-section and would welcome clarification.

Section 35 (1) (d).

We can only note that this would appear to be a further example of "big brother" legislation. The Constitution or Bylaws, as required in sub-section (c) would provide information on election procedures, and the "representative character of the officials" should be well, and we would hope, favourably known to the electing unit.

Section 36 (1) and Section 37.

We are unable to determine the motivation of this sub-section, and for Section 37. Pending clarification of the underlying reasons it would seem more appropriate to allow a bargaining unit to reach its decision on the "process for resolution of a dispute" at the point of impasse in bargaining. The employer will have a psychological advantage at the bargaining table in knowing the outcome of disagreement. In addition, the possibility exists, that the Board could be influenced in certain decisions, by a declaration of intent at the time the bargaining agent is seeking certification. The question of "safety and security" having been established for the bargaining unit, matters should then be allowed to run their proper course.

Section 44 (b).

We must protest most strongly against an authority that is far too broad, and which could become an oppressive piece of legislation. It is clear that in a desire to cover all eventualities the draftsmen have provided unlimited authority. The Board could use any reason that it alone considered valid for the decertification of a Council, and under the present Bill there is no avenue for appeal. Either "circumstance" should become specific or the clause be deleted.

Sections 45 and 47.

We would ask for clarification of these sections. They would appear to provide for a vacuum, in the cancellation of what was, nothing is substituted. Employers in the private sector are prohibited from reducing wages or altering conditions pending renewal or revision of the contract. We feel this same condition should apply where a bargaining agent is decertified before the expiration of the contract.

Section 57 (3).

We are unable to determine the full intent of the draftsmen in this sub-section, and request clarification.

Section 60 (1).

Provision should be made in this sub-section for the nomination of panel members by both employer and employees. Appointments could be made by the Board from such nominations.

Section 60 (2).

We have recommended earlier that the term of office for the Chairman and members of the Board, PSSRB, be five years, and we so recommend a similar period for the Chairman of the Public Service Arbitration Tribunal.

Section 70 (3).

This clause deals in broad terms with rights being reserved for exclusive management decision and administration. The view must be expressed that there will be some aspects of these areas where the employee has reason for concern. For example, in the matter of lay-off or release, fruitful areas of industrial dispute, any autocratic insistence of

unilateral decision or "method" would give rise to the strongest resentment. It is therefore recommended that this clause be amended to provide that such matters could be subject to arbitration, on agreement of the parties concerned.

Section 71 (2).

We wish to be advised as to why the Chairman of the Arbitration Tribunal will make the award in the event of difference of opinion among members of the Tribunal. The concept of a Board is meaningless, where it is known that the opinion of the Chairman is the one which must prevail. We cannot agree to any other than majority decision, with, where necessary, the Chairman having a casting vote.

Further, we believe that the possibility of provision for majority and minority reports should receive the attention of the Committee.

Section 74.

In our view the ninety days (three months) is now overly long in giving effect to the Arbitration Award, and we are therefore not favorable to any authority which would increase the waiting period. Any extension should be subject to the concurrence of both parties.

Section 79 (1).

It would seem clear that the vague generality of "safety and security" needs clarification, and this at the Committee level where we can advance our case. As the Bill now stands there can be no appeal against regulations promulgated by the Board. "Safety and security" could become a strait jacket, inhibiting the proper development of the system. We therefore recommend a criteria be developed that will reflect a mutual and reasonable position.

Section 94 (1).

This whole section does give rise, once again, as to the proper place of the Bargaining Agent in the Grievance Procedure. Section 90, sub-section 2, does provide that the Agent is in effect the intervenor where the grievance arises out of a collective agreement. However, in Section 94 there is no provision for the aggrieved person to have the agent act for him. We take the view that if grievances are to be properly processed they should in most cases be through the Agent.

Section 97 and 98.

These sections refer, in part, to the obligation of the Agent to pay half the cost of adjudication. This we cannot object to, but it necessarily follows that there must be specific provision in the Act for the Agent to participate in the nomination of the Adjudicator.

Section 99.

Regulations relating to the grievance procedure are a matter of importance to staff organizations. It is therefore our view that there should not be finally approved by the Board without an opportunity having been given to the organizations to express their views on the proposed regulations. We therefore recommend this section be amended

to read, "The Board, after consultation with recognized staff organizations, may make regulations . . ."

Finally we are greatly concerned that employees of the Senate and the House of Commons are excluded from this act. There is surely no fundamental difference between Public Servants as now covered and those who now fall under the authority of the Speakers. The fact that the authority and the jurisdiction are traditional is neither a valid nor a sound reason for its perpetration. The present Bill indicates that ours is a viable society and to allow tradition to override a matter of equity would suggest that the issue has not received full consideration. It would be the part of grace to now agree that no citizen should be deprived of his rights as a worker, to organize freely without fear and to bargain with his employer on the terms and conditions of his employment. There is no full citizenship dignity in being administered by grace and favour.

This Committee now has the opportunity of bringing the Public Service without exception into the twentieth century. We would hope that it will take this opportunity.

On behalf of the Civil Service Association of Canada.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Doherty, would you read the other brief, please?

Mr. W. DOHERTY (*National Secretary, Civil Service Association of Canada*): Views on an Act Respecting Employment in the Public Service of Canada.

Mr. LEWIS: Mr. Chairman may I ask a question for clarification? At the top of page 11 of the brief that Mr. Gough just read, the suggestion is made that the bill be amended so as to provide for membership in a staff organization of those excluded from the bargaining unit. Is there a section in the bill that now excludes such employees from being members of an organization?

Mr. GOUGH: Except by inference and the usual industrial practice where management are excluded from the bargaining units. I think I am correct on that, am I not, Mr. Lewis?

Mr. LEWIS: Not entirely. At the moment I just want to establish whether you are asking that something which is there be taken out or whether you are merely—

Mr. GOUGH: We just wish to assure ourselves that no matter what the levels or what the office of the public servant be, that she should be allowed to be a member of a staff association.

Mr. LEWIS: But there is nothing in the bill which prevents that?

Mr. GOUGH: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): I might say for Mr. Lewis' information, we agreed this afternoon that these briefs would be read and questions will be asked at a later time; otherwise we would break our routine very quickly and our timetable would be disrupted. Will you proceed, Mr. Doherty?

Mr. DOHERTY:

Views on an Act Respecting Employment in the Public Service of Canada.

The Act, embodying as it does a completely new concept of the powers of what was the Civil Service Commission, requires a complete re-evaluation of traditional attitudes of staff associations. The Civil Service Commission under the Civil Service Act, both old and present has, in great measure, given force and meaning to a career service based on merit. An Act, more enlightened than most, has developed a service second to none. We would be remiss, therefore, if we did not at this time extend our thanks to the distinguished public servants who, over the years, have served so well.

The broad solid base of merit in the Civil Service will be extended to the Public Service. This we view as a logical and welcome extension. But conditions of employment will be the responsibility of another authority. Our comment, therefore, in this Bill will, in recognition of the changing facts, relate only to this bill. In this certain of our comments may properly be regarded as a matter for regulations, as authority for such is provided under Section 33. We make them, however, as matters of some substance and as a record of views.

Section 6.

Our major cause of concern lies in Section 6, providing the power for delegation of authority. Let it be said, first of all, that it is recognized that it would be almost impossible for the Commission to directly administer its full authority. There is, however, a very prevalent suspicion among public servants that departmental authority in promotion would result in favouritism and nepotism. The Bill gives some recognition to both these propositions, but in seeking a middle way simply proposes that abuse would result in the withdrawal of the delegated power.

We make no suggestion that abuse would be universal, but it will occur, and the deterrent is without teeth. It is our firm belief that the Commission should be required to make a full report, naming the department or departments involved, in its annual report to Parliament. This requirement should be embodied in Section 45.

Section 10.

This Section provides for selection by competition, "or by such other process as the Commission considers in the best interest of the Public Service." In our view "process" is too vague in term, in what is a very fundamental matter. It could, without some limiting clause, provide over time for an erosion of selection by competition. Therefore unless "process" is subject to definition, we strongly oppose this aspect of selection.

Section 17.

It has been noted that there is no requirement that eligible lists be published in the *Canada Gazette*, and we would assume that this is a departure from present practice and intentional. We would be interested in the reason for the decision, since we believe such publication useful. In many instances a successful candidate can ascertain his progress by knowing the names of those ahead on the list.

Section 25.

This Section is specific, and while technically an extension could be approved by a new appointment no provision is made for such cases.

Section 26.

The previous Act required that the deputy head acknowledge the resignation in writing, and it would seem desirable that this procedure be continued.

Further since it is presumed that notice will involve a period of time the deputy head should, unless there is special reason, indicate in writing in the acknowledgment that separation will be effective as indicated in the notice.

Section 27.

This Section makes no provision for special circumstance. It recalls the case of the civil servant who had a serious accident at the end of leave and was unconscious in a hospital for several weeks. If this Section is to stand as printed, a clause should be added for reappointment, with no break in service, to cover special circumstances.

Section 28.

(1) The present Act sets a limit of one year, and it would seem desirable that this Bill establish a maximum period.

(3) The authority to reject an employee for "cause" does not require, as does the present Act, that in so advising the deputy head shall detail the reasons (cause) for the decision. We strongly recommend that this requirement be incorporated in the present Bill.

Section 29.

Lay-off procedures are of great importance in the employer-employee relationship. Since the previous Act is more definitive in this matter than the present Bill, we would ask to be advised the reasons for the present form. Subject to acceptable exception the Bill should provide the last off should be the first re-hired. Prevailing rate employees are particularly susceptible to lay-off and general industrial practice is in accordance with the above recommendation.

Section 31.

(1) This sub-section is also less definitive than was the case in the previous Act. Incompetence should be capable of definition, and therefore should be in the Bill.

(3) This appeal provision is unsatisfactory in that it makes no provision for an appellant to be represented by an officer of a staff organization. It is the exception rather than the rule for the employee to properly present his case. He will be emotionally involved and unable to approach his superiors without a nervous tension that weakens his presentation of the appeal. This sub-section should be amended to provide the employee with the right to be represented, if he so desires.

(4) We would wish to support and commend this sub-section.

Section 32.

The matter of political partisanship, with its rigid prohibition of participation has been receiving increasing attention in recent years by public servants. In this regard it should be noted that there has been no legal provision of this nature applying to prevailing rate employees. The large majority will have no desire to participate actively in politics, but it is questionable as to whether the right should be denied the few. We suggest that a public servant should be as free as any other citizen to make his own decision without hindrance.

We do strongly object to any employer dictating to an employee as to what he may not do with any portion of his take-home pay. This is an infringement of his liberty that should not be tolerated in a free society.

The JOINT CHAIRMAN (*Senator Bourget*): Do you have another brief?

Mr. DOHERTY: Yes, Mr. Chairman, this is the association's view on an Act to Amend the Financial Administration Act.

During the discussions with the Preparatory Committee the conception of "enshrined rights" came under close scrutiny. These enshrined rights were considered to be those benefits embodied in the Civil Service Act and the Public Service Superannuation Act, and the question at issue was whether or not these should initially be placed outside of the area of bargaining. Apparently the issue has been decided in that there is no provision for such in the three Bills now under consideration. However, we have noted that the Treasury Board under Bill No. C-182, Section 7, sub-sections (d) to (i) will be invested with authority to determine conditions of employment, it being noted at the same time under Section 18 that the "Act or any of its provisions thereof, shall (only) come into force on a day or days to be fixed by proclamation of the Governor in Council."

We would express our grave concern to the Committee on the determination of conditions of employment during the transitional period. For some groups of public servants this period could conceivably be a matter of months, for others at least two years, and for a large number of others, longer. The first group which qualify for bargaining on October 1, 1966, would not be in a position to do so before the Pay Research Bureau data becomes available in March or April 1967. The last group will not so qualify until approximately two years later. In addition to these there will be a number of groupings which will not be able to meet the requirements of Bill No. C-170, on the numbers of members in the bargaining units. For these employees it will be over two years and up to four years before bargaining can take place. These circumstances must raise the question of what may be proposed to meet the exceptional conditions.

We believe this issue to be too fundamental to "wait and see," and to find out at a later date that our expectations are not the same as the intentions of Treasury Board. This is not intended to reflect on the good will of the Board but we should know just what may be expected. Both parties will enter into the new regime determined to make it work, but it

must be recognized that any new system takes time to shake down to smooth operation.

It is our opinion that the authority to provide and determine conditions of employment should be limited by transitional provisions. These to provide that present conditions shall continue until changed by collective agreement or agreements. Thereafter in accordance with the provisions of subsection (d) the Board would "determine and regulate—pay—and hours of work," in accordance with collective agreements negotiated with duly certified bargaining agents of public servants; or in accordance with the awards of arbitrators; or which may be determined through conciliation. In this regard we would also note that the subsections which follow can be subject to agreements and awards.

We continue to be gravely disturbed on the abrogation of a citizen's right of appeal, as provided for by Sections 7 and 8. Such is contrary to common law and principles enshrined in our democratic and parliamentary process. We opposed Section 50 in the Civil Service Act and we continue to be of the opinion that every citizen has the right of appeal. We know of no sound reason why the right of private appeal, before a Tribunal, should not be provided. An officer in the Public Service, or a staff association officer, should be thoroughly screened for security, and be allowed to act as the *amicus curiae* of the suspected employee.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much Mr. Gough and Mr. Doherty. I am sure the Committee appreciates the presentations that you have made. They are very clear and concise and we will have the benefit of your experience, no doubt, at a later date. Thank you very much.

We have a short brief here from the Lithographers and Photoengravers International Union which was filed some time ago and I think, every member of the Committee has a copy before him. We have invited Mr. Poulin, President of the Ottawa Local 224 to present this brief tonight. Mr. Poulin.

Mr. J. M. POULIN (*President, Ottawa Local 224, Lithographers and Photoengravers International Union*): The Lithographers and Photoengravers International Union are pleased to have the opportunity to appear before the Committee. Due to the short notice on the submission of briefs, the document I will read is not a qualified clause by clause analysis of Bill No. C-170, but rather it deals only with one or two points pertaining to the appropriate bargaining units by classification with reference to skilled craftsmen and with what we believe, in an industrial operation of the federal government, which is in competition with similar operations in the graphic arts industry and that is the Canadian Government Printing Bureau and its units across the country.

We do have other views on Bill No. C-170 but these will be expressed in the brief which will be submitted by the Canadian Labour Congress. The French translation of the document that I am going to read will be in the hands of the Committee by Thursday next.

Brief of the Lithographers and Photoengravers International Union in the Matter of an Act Respecting Employer and Employee Relations in the Public Service of Canada (Bill C-170).

Mr. Chairman and Members of the Committee, the Lithographers and Photoengravers International Union—AFL-CIO, C.L.C. (hereinafter referred to as the L.P.I.U.) are representatives of a large majority of lithographic workers in Canada, which includes a majority of lithographic workers employed by the Government Printing Bureau located in units in Ottawa and Hull as well as right across Canada. The L.P.I.U. wish to submit for your consideration the following as it pertains to the matter of Bill No. C-170, commonly known as the Public Service Staff Relations Act.

The L.P.I.U. negotiate three basic contracts in Canada.

1. *EASTERN CANADA* (Ontario, Quebec and the Maritimes) covering some 150 contracts employing over 4,000 members.
2. *WESTERN CANADA* (Manitoba, Saskatchewan and Alberta) covering some 30 contracts employing over 300 members.
3. *BRITISH COLUMBIA* covering some 30 contracts employing over 700 members.

This constitutes a total of over 210 contracts employing over 5,000 members.

The Lithographers employed in the Government Printing Bureau and outside units across Canada enjoy the wages and conditions of work of one of these three basic contracts dependent upon the geographical area of Canada in which they are employed. We can assure the Committee that there is anxiety on their part that Bill C-170 might take away from them these conditions of pay and work that they have enjoyed due to their affiliation with the L.P.I.U., in some instances dating back to pre-war No. II days. Our association has been making semi-formal representations to various Government Agencies for many years as it concerns employees in the Lithographic Departments. Although it has been on a semi-formal basis, this can now be formalized to conform to the rules and regulations of the Public Service Staff Relations Act, providing these rules are patterned on industry practices within the Graphic Arts Industry of Canada.

With the advent of collective bargaining, it seems inevitable that more formal machinery will be required if only to make the process an orderly one and to avoid jurisdictional problems within the Government work force.

Collective Bargaining comes under the following headings:

1. Recognition of appropriate bargaining agents.
2. Formal machinery for processing Collective Bargaining.
3. Bargaining itself.
4. Signed Collective Agreement.

It is apparent now that the right of association is recognized in the Government Service. Many trade unions have membership in Government Service. Our association is one of such unions with a history of semi-formal bargaining by representation for a great number of years.

There are many ways of determining an appropriate bargaining unit. We would recommend the simplest form and that is recognition to any body of employees which can establish a majority in any department or trade according to the rules established by the Government. As you can ascertain, we are not suggesting that it be on an all encompassing type of recognition (known in trade union circles as an industrial type of union) but rather it should be established in a manner to protect the number of Government employees who are working at a skilled trade. It would not be right or possible for the Government to ignore the facts that certain organizations now exist among Government employees, particularly in the prevailing rate area of Government Service.

We would submit that the Government look seriously into representation on a craft basis. The Graphic Arts Industry of Canada has recognized individual crafts as requiring special wages and conditions of work over these many years and look to the Government to follow this established pattern of appropriate bargaining agents and collective bargaining.

The Canadian Labour Congress, of which the L.P.I.U. is an affiliate, in their brief submitted to the Preparatory Committee on Collective Bargaining in the Public Service stated the following: "We would assume that bargaining on behalf of employees in the Department of Public Printing and Stationery would be conducted by the Government with representatives of the Printing Trade Unions affiliated with this Congress".

One of the ways of resolving this problem of craft unions within the Government Printing Bureau would be to change the Government Printing Bureau in Schedule A from Part No. 1 to Part No. 2. This is permissible under Sections 4 and 5 of Bill C-170. If this was done then the Government Printing Bureau would be considered a separate employer under the Act and would then be able to negotiate with the representatives of the skilled trades employed within the Government Printing Bureau on a separate basis, similar to industry within the Graphic Arts.

Failing the above, then we would respectfully submit that Bill No. C-170 be clarified and changed to conform to Graphic Arts Industry as it concerns Craft Unions and their desire for certification on a craft oriented basis and allow them bargaining rights so that they may continue to enjoy wages and conditions of work that prevail in the skilled classification to which they belong. This could be done on an individual craft union basis or through the Council of Union Employees as presently constituted in the Government Printing Bureau. We feel and recommend that the final choice should be made by the majority of the individual employees employed in a particular skilled trade: i.e.—Lithographers—Bookbinders—Compositors, et cetera.

In summation, we would suggest that the Committee give serious consideration to the following:

1. The Committee seriously consider the problems inherent in the transferring of semi-formal discussions between the various craft

unions and the Government Printing Bureau to a formal arrangement.

2. Make certain that Craft Unions be given the same consideration as they receive at the present time in industry, particularly within the Graphic Arts Industry.

3. Study the feasibility of transferring the Government Printing Bureau in Schedule A, Part No. 1 to Part No. 2.

4. We would like to draw to the attention of the Committee the short period of time allowed for preparation of briefs. Notice was received on Friday, June 24th and briefs had to be received by the following Wednesday, June 29th. In addition, 50 copies were required in English and 25 copies of a French translation. This does not allow for sufficient time for the necessary research required for such a serious matter affecting a hundred thousand Government employees. We would ask the Committee for an opportunity of submitting additional documents if necessary and also for the opportunity of appearing before the Committee in order to make an oral presentation as well.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Poulin. I might assure you that you will have an opportunity either through the C.L.C. or directly, if you want to, to present a further brief and to also have an opportunity, either yourself or a representative of the Lithographers and Photoengravers International Union to appear before the Committee and to make any other submission and to be subject to examination. Thank you very much.

Just in passing, I understand that our superannuation bill which was reported earlier, has passed third reading in the House.

Mr. BELL (*Carleton*): It passed through committee and had third reading about ten minutes ago, with the amendments which were agreed upon in this Joint Committee.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much for your co-operation and your work.

The intention of the Chair is to have one other meeting on Thursday evening because the only brief now to be submitted at the present time is that of the Civil Service Federation who have indicated, through Mr. Edwards, that they will be available for that meeting on Thursday evening. It will be either at 7 or 8 o'clock, whichever suits the members.

Some hon. MEMBERS: Eight o'clock.

The JOINT CHAIRMAN (*Mr. Richard*): It is agreed it will be 8 o'clock.

Mr. MUNRO: Mr. Chairman, do you have any idea how many more briefs there are to be presented?

The JOINT CHAIRMAN (*Mr. Richard*): I thought I made myself clear, Mr. Munro, that that is the only brief that is left to be presented at this time. The C.L.C. have a brief which will not be ready until some time late in July. The Union of Postal Workers and others will come at a later time. So, the only

meeting scheduled for this week is the meeting on Thursday evening to hear the Civil Service Federation.

Mr. BELL (*Carleton*): Are we pressing the federation on unnecessarily now, having regard to the briefs?

The JOINT CHAIRMAN (*Mr. Richard*): No, Mr. Bell. The Civil Service Federation has a brief and they had it all completed but it has to be mimeographed or copied and it will be ready by tomorrow morning, I understand, or tomorrow afternoon. It is a matter of copying. Mr. Edwards indicated that he would like to come here on Thursday.

Mr. TARDIF: If that is the case, Mr. Chairman, could we not have the meeting on Thursday afternoon?

The JOINT CHAIRMAN (*Mr. Richard*): We might, if we had a room but there are no rooms and there are no rooms next week either, because the Caribbean conference is taking over all these rooms.

Mr. CARON: Let us use room 33, for secretaries, to be able to keep on going and reduce the number of committees from 25 to 15, and have a quorum of 8.

Mr. BELL (*Carleton*): We were glad to welcome them, Mr. Chairman, in the conservative caucus room today, and we felt quite at home.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much. There has been a motion to adjourn until Thursday evening.

THURSDAY, June 30, 1966.

● (1.00 p.m.)

The JOINT CHAIRMAN (*Mr. Richard*): We reserve this afternoon's meeting to hear the brief presented by the Civil Service Federation of Canada, and I understand Mr. Claude Edwards and Mr. Hewitt-White will share the responsibility of presenting this briefs. Which one will be first? Mr. Edwards?

An hon. MEMBER: Which bill?

The JOINT CHAIRMAN (*Senator Bourget*): Bill No. C-170—collective bargaining.

Mr. C. EDWARDS (*Civil Service Federation of Canada*): The Civil Service Federation of Canada welcomes the opportunity of presenting the viewpoint of the federation on Bill No. C-170—"An act respecting employer and employee relations in the Public Service of Canada." We wish at this time, to commend the government for the action they have taken in introducing this legislation. It is a most comprehensive piece of legislation and we believe that, with some necessary amendments, it will place the employees of the government of Canada in a collective bargaining relationship with their employer which will compare favourably with any collective bargaining relationship available to employees of other government services. Although we find areas of the bill that we wish to see amended, and this, of course, is our main objective in making this presentation to you; we can pledge the government our full support in making employer-employee relations in the Federal Service of Canada a model

to which other governments may aspire. With good faith and responsibility by all parties involved in this new formal system, we believe the relationship between management and staff of the public service can be a satisfactory and ever improving one.

In this brief to your committee, Mr. Chairman, we will confine ourselves to certain areas of the bill where we are vitally concerned as to the effectiveness of the legislation in regulating the process of collective bargaining in the public service and the impact it may have on our existence as a staff association. Although there are many clauses in the bill where we believe the language might be improved or where the intent of the legislation might be more clearly or appropriately expressed, we have refrained from commenting on these areas in this brief because we believe your committee should be concerned primarily with the broad principles of the legislation. As stated above, it is important that the good faith of the participants and the good judgment of the Public Service Staff Relations Board ensure that the intent of the legislation will be honoured at all times.

We also believe it is important to proceed with this legislation as quickly as possible giving, of course, at the same time, due regard to the representations of interested parties. It is perhaps unnecessary for us to point out to the Committee that the Preparatory Committee on Collective Bargaining was established in August, 1963. The third anniversary of the formation of that committee will soon arrive. This has been a long period of incubation. We hope that the legislation will be available to enable certification and bargaining to commence with the operational category this year.

Before proceeding with our comments on the amendments we propose to the bill, we would like to relate briefly the history of the Civil Service Federation as the representative of employees in its relationship with the government of Canada.

The Civil Service Federation was founded in 1909. Its formation resulted from the desire of the organized service in Ottawa to consolidate 23 different organizations into one group to make effective representations on the need for civil service reform in those days. Its membership then was slightly over 5,000. Today, the federation represents 80,000 civil servants from 15 national associations and 89 directly-affiliated public service groups. Its members are located in all departments and branches of the Canadian government in Canada and throughout the world. Its basic aim has continued to be the protection of the interests of Canadian civil servants as a whole. This brief is, in effect, a practical example of this very aim.

Bargaining Units

One of our principal concerns is that the system of collective bargaining will work. We mean by this that it will function properly in that representatives of employees and management in a bilateral process will determine the working conditions and pay of the civil service. We do not believe that this system can function properly, however, with many different representatives of employees acting on behalf of various occupational groups. In our opinion, where the demands of one group will constantly be compared with the demands of others, chaos will develop. These comparisons will be truly odious since they can prestage many difficulties caused by one organization trying to outdo the accomplishments of another. Although we do not wish to impugn

in any way the motives of government, it is possible that the system of bargaining as proposed in this legislation may place the government in a position where it could bargain with the weaker groups first and thereby establish a pattern of contracts that would be difficult to break.

We do not believe the government wishes to deal with 66 separate and distinct representatives of employee occupational groups. We do not believe the government wishes to develop different fringe benefits within occupational categories. If these premises are correct, we are of the opinion that the government should be prepared to establish bargaining units on the basis of occupational categories, with bargaining agents certified on the basis of majority representation within the categories. If this were done it would not preclude bargaining of rates of pay and certain conditions of employment on the basis of occupational groups but central issues that should be uniformly dealt with on a category basis would not be variously dealt with in the bargaining process. We would ask the Parliamentary Committee to consider the situation that would be created if the telephone operators in a government office worked 30 hours per week while the clerks worked 37½. Obviously the government would hope that general working conditions covering at least a category would be the same. The proposals to divide the service into bargaining units based on 66 occupational groups can certainly defeat that objective.

Industrial style bargaining units are certainly the pattern in labour relations in the private sector. Whereas certain established craft unions do continue to represent employees in a specific trade or craft, most labour relations boards tend to consider all employees in the plant or office of one employer as an appropriate unit for collective bargaining.

The Civil Service Federation recognizes that mail handling employees of the Post Office Department have been represented for many years by separate associations within the Post Office. We accept the fact that for historical as well as political considerations the desire of these associations to represent their members, must be recognized. For this reason we propose that a separate category of employees that should be identified as the mail handling category should be formed. This category might be divided in occupational groups for the purposes of pay determination.

In essence we are proposing that the public service be divided into seven occupational categories, namely, Executive, Scientific and Professional, Technical, Administrative, Administrative Support, Operational and Mail Handling. Each of these occupational categories, with the exception of the Executive Category, would be a bargaining unit and the certified bargaining agent would be the organization which represented the majority of employees in any one unit.

Certification Delays

The Civil Service Federation is very concerned with the provisions of clause 26 in Bill No. C-170 which determines the commencement of collective bargaining and permits the Governor in Council to fix the day, not later than two years after the coming into force of the act, on which employees within each occupational group become eligible for collective bargaining. When this clause is read in conjunction with clause 29, which provides that no employee organization may apply for certification prior to the date on which the employees comprised in the proposed bargaining unit become eligible for collective

bargaining it means that certain employees will be denied certified representation in collective bargaining until possibly two years after the system is instituted. This built-in discrimination will simply add to the incidence of unrest, uncertainty and disorganization among public servants during the implementation period.

These delays are unfair and unnecessary. There is no reason why immediate certification of bargaining units, even in the absence of bargaining rights, should not be permitted. Such a provision would ensure that all employees would have the assurance of effective and legally sanctioned representation immediately upon bargaining rights being granted to them. It would appear to be in the interest of both employer and employees to correct this apparent deficiency in the bill by permitting associations to seek certification when the bill is proclaimed without any waiting period.

We can appreciate that the concern of the government that may have prompted this requirement of phased-in collective bargaining was a wish to retain the cyclical approach to salary determination. We support this concept of cyclical reviews and have already informed the government that we would be prepared to enter into any necessary agreement that would permit certification without undue delay while at the same time defer the right to bargain collectively on salaries until the date coincident with the cyclical review date for that category.

Dispute Settlement

We are concerned with the provisions of section 36 which require an employee organization seeking certification to declare, before it is certified, which of the dispute settlement processes it will select. We fail to understand the reason behind this. We believe that it is unnecessary and unreasonable to expect an employee organization to declare itself in reference to dispute settlement before it has achieved the legal status that only certification can provide. It may not be able to accurately determine the wishes of its members who are not yet seized of the problem and the merits of which might only be defined when collective bargaining is about to commence. Section 39 provides a formula to enable a bargaining agent to change the method of dispute settlement prior to subsequent rounds of collective bargaining. We strongly suggest that this principle should be made equally applicable at the initial stage and enable the agent to exercise his choice just prior to the commencement of bargaining.

Arbitral Matters

It is our understanding that the subject matter of collective bargaining is in no way proscribed by this legislation. However, under the provisions of clause 70, an arbitral award may only deal with rates of pay, hours of work, leave entitlements, standards of discipline and other terms and conditions of employment directly related thereto. There is no provision for arbitration of disputes that may arise on many other items that may be the subject of bargaining. Of particular interest to employee organizations is the question of union security. Inability to process a dispute on this question to arbitration leaves a bargaining agent in the unenviable position of having to accept whatever an employer may be inclined to grant.

We believe that all matters that are subject to bargaining should be subject to arbitration. We would particularly stress that the classification of employees should be subject to collective bargaining and arbitration. Only in this way can we be sure that gains at the bargaining table on pay are not unilaterally negated by the employer through classification action.

The Civil Service Federation takes exception to the limitations expressed in section 56(2) of the bill. We believe that this section could be deleted since the government should be prepared to bind itself to introduce necessary legislation. It may be required to implement any terms or conditions of a contract that it has negotiated with its employees.

With reference to section 68 of the bill, the federation believes that the arbitration tribunal should have broad powers to consider the matters placed before it. We suggest that more appropriately this section should confine itself to a statement that the arbitration tribunal shall consider and have regard to:

- (a) the conditions of employment provided in similar occupations by good employers outside the public service,
- (b) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered, and
- (c) any other factor that to it appears to be relevant to the matter in dispute.

Adjudication of Grievances

With respect to the matter of grievance procedure, the federation's general view is that the act should simply have provided for a grievance procedure and that the parties to an agreement should have been free to negotiate the procedures.

In addition, we object to the principle that certain grievances may go to adjudication and others may not. Our view is that all grievances should be capable of third party adjudication. We believe that section 91 should be amended to provide for adjudication of grievances with respect to the interpretation or application in respect of the employee of a provision of a statute, or of a regulation, by-law, direction or other instrument made or issued by the employer dealing with terms and conditions of employment. It seems appropriate to us that if interpretation or application of the terms and conditions of a collective agreement or arbitral award are subject to adjudication all matters that are codified in statute, regulation, by-law, et cetera, should be equally capable of adjudication in the grievance process.

Processing of Grievances

We further believe that no employee who is a member of a bargaining unit represented by a bargaining agent should be permitted to process a grievance without the support of his bargaining agent. In this way frivolous grievances can be prevented from cluttering up the grievance process and conflict between certified and non-certified associations can be avoided.

The bill continually refers to an employee being the originator of a grievance. Our view is that grievances can be submitted either by the individual

or the bargaining agent, that is, a grievance involving check-off may not concern the individual, but it would be important to the bargaining agent.

Departmental Associations

Last, but by no means least, we would like to place before you our arguments in regard to the place in the collective bargaining process of the Departmental Staff Associations. The Departmental Staff Associations of the Federal Public Service have a long and honourable tradition of representing their members vis-à-vis the government or the various departments of government. Many departmental staff associations within the ranks of the Civil Service Federation were formed more than half a century ago. The departmental associations fought for collective bargaining as the appropriate way to improve their representations on behalf of their members. They now find that the legislation they helped create provides neither recognition nor rights. We believe that there is a vital need for staff organizations that are related to departments. The employee tends to consider himself an employee of a department first and the government of Canada second. More and more authority is being placed in the hands of departmental managers and undoubtedly as departmental managers acquire and develop this additional authority the requirement for a collective relationship at the departmental level will increase. We believe it will be appropriate for representatives of employees at the departmental level to negotiate subsidiary agreements on such matters as shift schedules, commencement and finishing times of work, provision of protective clothing, local work rules, et cetera. We believe the employee organization that represents the majority of employees at the departmental level should be certified as the bargaining agent with exclusive jurisdiction to deal with local departmental matters that are not prescribed by collective agreement bargained at the centre.

Summary

In conclusion, we would like to state that although there are sections or clauses of the bill that might be improved with slight amendment, we have refrained from making observations on such clauses. We believe that good faith and just cause should be, in essence, the cornerstones on which this legislation is based and will provide the means whereby through time and experience amendments or modification of the processes may be in order. The concerns we have expressed in this brief to you are genuine and sincerely held. We believe that your concurrence with our suggested amendments will not only strengthen and improve the legislation but will enable us to do a more satisfactory job of representing the interests of our members.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Edwards. I understand Mr. Hewitt-White will now proceed with the balance of the brief on Bill No. C-181.

Mr. BELL (*Carleton*): Mr. Chairman, before we do go on with that, might I just mention one problem in connection with this brief. On page 2 there is an indication from Mr. Edwards that there are many clauses in the bill where they believe that the language might be improved and where the intent of the legislation might be more clearly or appropriately expressed. On page 13 the brief says that there are sections or clauses of the bill which might be improved with slight amendments. Mr. Edwards has said he refrains from making an

observation on that clause and he says the role of our Committee, and I quote: "Your Committee should be concerned primarily with the broad principles of the legislation."

Now, we are not only concerned with the broad principles of the legislation, we are concerned with making this legislation and reporting it to the House in its detail. I think Mr. Edwards has raised on page 2 and page 13 a number of issues upon which I am sure, at some stage, the Committee would wish a supplementary brief. I certainly do not want to report to the House when as important an organization as the Civil Service Federation has said that there are many clauses in the bill where the language might be improved and where the intent of the legislation might be more clearly or appropriately expressed.

I would like to know, as soon as is possible, which are those clauses, and I venture to suggest, with respect, that we should ask Mr. Edwards to present us with a supplementary brief on these as soon as is convenient.

The JOINT CHAIRMAN (*Mr. Richard*): I think the Committee will agree, Mr. Bell, that Mr. Edwards should present a supplementary brief because of the allusions he referred to. I suppose that Mr. Edwards was under the impression that he might have the opportunity to be present at the time when we would be on individual sections to make that type of suggestion. But I agree with you, Mr. Bell, that it would be much better if we knew in advance what suggestion he has to make because we might cover an awful lot of ground before we come to the right one.

Mr. WALKER: Mr. Chairman, I agree with the association that Mr. Bell is representing, if in fact, they are interested at this time—

Mr. BELL (*Carleton*): I am not representing any association.

Mr. WALKER: No, Mr. Edwards. Excuse me.

Mr. BELL (*Carleton*): Bell is just representing all civil servants—the mayor of all the people.

Mr. WALKER: If, in fact, Mr. Edwards, this particular sentence is just in here with a view to expressing an opinion at some time, there are other things in the bill that might be looked at. But, for now, let us get the basic things done. I would be interested in knowing if this really was what Mr. Edwards had in mind or if, in fact, there was a definite reason why it was put in this general language.

Maybe the association does not want to get down to the specific things that are of interest, but may it not be of the utmost importance to the legislation right now, particularly, if it is going to hold it up another month.

Mr. EDWARDS: I think you have expressed our point of view very well, Mr. Walker, this was what we were concerned about. We knew that there was a need for some speed in getting this legislation through. As we have pointed out, it has been three years in the incubation process. We were not prepared to hold this up on the basis of deciding whether it should be this word or that word in reference to a clause. We have given you what are our basic and fundamental observations and concerns about this legislation; the things that we would particularly like to see changed. We think that we can live with the other parts of it that we may not be quite ready to accept word for word, but if the opportunity is there and if the Committee wishes it, we would be prepared to

put in a supplementary brief in reference to clauses that we think might be more appropriately expressed and we can let you have this as soon as possible.

Mr. WALKER: Mr. Chairman, if I may I would like to draw this to the attention of the Committee. This piece of legislation, in my judgment, as the months and the years go on, will be amended, as the experiment shows it needs amendment. Does it serve your purpose just as well, having put this wording in your brief, to simply have served notice on the Committee that at some time there are other matters of a detailed nature you would like to talk about, but let us not hold up the legislation?

Mr. EDWARDS: This is essentially it.

The JOINT CHAIRMAN (*Mr. Richard*): I would draw to your attention, Mr. Walker, however, that we have had one brief of the Professional Institute which does suggest a great number of changes, which we will not be able to avoid studying, at least. I would personally think that it might be a very good thing for Mr. Edwards and his association to submit to us a supplementary brief as soon as possible on the more particular changes which he has in mind.

Now, Mr. Hewitt-White.

Mr. W. HEWITT-WHITE (*Executive Secretary, Civil Service Federation*): This is our brief on Bill No. C-181, the Public Service Employment Act.

The Civil Service Federation of Canada, as a major representative of civil servants, is vitally concerned, not only with the implications of the bill providing collective bargaining to the public service; but, equally, with the bill setting out the residual jurisdiction exercised by the Civil Service Commission over the public service.

We are convinced that the Civil Service Commission should exercise full and complete jurisdiction in matters related to recruitment and the protection of the "merit" principle in appointments. In general, we find that the Public Service Employment Act has been designed to provide substantial flexibility to the Civil Service Commission in coping with future and changing conditions in the service. We note also that the act permits the Civil Service Commission to make its own regulations. In general, we agree with this approach because we recognize the limitations with regard to taking corrective action that could result from spelling out circumstances and corrective action in too great a detail in legislation.

Delegation of Powers of Appointment

We note that the bill provides for substantial delegation of powers of appointment of deputy ministers, and the national employment service. While we are not against such delegation, we are concerned, however, that the commission should maintain an adequate audit and control system that would prevent any abuse of the powers of appointment and any departure from the merit principle as the essential basis on which appointment may be made. We believe that audits by the commission under any system of delegation of powers should not be confined solely to post auditing of appointments; but should also include spot checks in regard to the pre-auditing of competitions and the inspection or observations of actual competition procedures.

With regard to section 6, subsection 2 of the act, we feel that substantial difficulties might occur in implementation of such a section, stemming from the fact that the action contemplated would take place after the appointments have been made. We feel that this section should make it possible for the commission to conduct pre-audits and thus not be placed in the position of having to revoke an appointment already made. We feel that the insertion of the words "or is about to be" after the word "been" in the second line of the subsection would correct the situation.

Appointment and Selection Standards

We heartily agree with the principle established in section 10 that appointments to the public service shall be based on selection according to merit. In our opinion, however, this section could be interpreted to apply only to new entrants to the public service, and we feel that this principle should apply to those within the service as well as to those entering the service and we would, therefore, suggest the insertion of the words "or within" after the word "to" in the first line. We also feel that safeguarding of the merit principle requires that, wherever possible, all appointments should be by competition and that only in the rarest of circumstances should there be a departure from this practice. We are concerned, therefore, at the inclusion of the words "or by such other process as the commission considers is in the best interests of the public service" at the end of this section following the words "by competition". We believe there should be a clear definition, in the interpretation section of the bill if necessary, spelling out what the commission has in mind by the words "or by such other process—".

We also consider that it is extremely important to ensure that adequate protection is given to employees in the public service who aspire to normal career progression. We believe it is important that the commission ensure that qualified people in the service should have the first opportunity for promotion. If qualified people are not available, then there should be provision for appointment from outside the service and we consider, therefore, that section 11 is not adequate. In our view, the principle just enunciated should be clearly stated in this act rather than have appointments within the service depending entirely on the opinion of the commission as to whether or not it is in the best interest of the public service. In other words, in any given situation, the commission should be required to demonstrate that qualified people are not available in the service before resorting to appointments from outside the service. We feel that the following wording could be used in place of the present wording of section 11 to accomplish the necessary objective: "Appointments shall be made from within the public service. Where no qualified candidate is found, the commission shall proceed to make the appointment from outside the public service."

Eligibility Lists

Section 17 deals with the subject of eligibility lists. We feel that once such lists are established for any particular class or grade, they should be established for a minimum period. Subsection 2 of section 17 states that "an eligibility list is valid for such period of time as may be determined by the commission in any case or class of case". We fully agree that the Civil Service Commission is probably in the best position to determine the maximum length of time beyond

which an eligibility list need not be continued. We feel, however, that a minimum period of time should be spelled out and recommend the inclusion of the following words: "but in any case, for a period of not less than one year", following the words "or class of case" in the last line of subsection 2.

Appeals

It has long been recognized that an employee had the right to nominate the staff association to which he or she belonged, to represent such employee at an appeal board. Section 21 of this act is silent in this regard and we strongly urge, therefore, that a provision be added to this section that would clearly indicate that an employee organization could represent an appellant before an appeal board if so designated by the employee concerned.

Probation

We note that section 28, subsection 3 entitles deputy heads to give notice of rejection to employees for cause at any time during the probationary period. This is in line with the present act and regulations and while we do not feel that the various causes for rejection need to be spelled out in the legislation, we do feel that they should be spelled out in the regulations pursuant to the legislation.

Priority on Re-Appointment

We consider that it is extremely important to establish an order of priority with regard to re-appointment. In our opinion, this priority should be as follows:

- (1) A person on leave of absence
- (2) A lay-off
- (3) A ministerial assistant who was, prior to such appointment, employed in the public service.
- (4) A ministerial assistant who became qualified in the normal way for the public service for a public service position while employed as a ministerial assistant.

As a result of the foregoing, we suggest the deletion of the words "and 37" in section 29, subsection 3, line 11. We also suggest, for the same reason, that section 29, subsection 4 be amended by adding the words "by regulation" after the word "determine" in line 16 and the insertion of the words "for which he is qualified" after the word "competition" in line 17, and the deletion of the remainder of that subsection. We respectfully suggest that the necessary changes also be made to section 37 of the act to reflect the principle established by the order of priority for re-appointment referred to above.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, gentlemen. I think the Committee will agree that this is an excellent presentation. It reflects the knowledge and the experience of your officers over many years of association with the problems with which we are going to deal.

I note that you have no presentation to make on one of the bills—the treasury bill. You do not intend to file any other supplementary brief on that bill particularly?

An hon. MEMBER: The Financial Administration Act.

Mr. HEWITT-WHITE: It was in our title because we did the title page before we realized that—

The CHAIRMAN: Thank you very much.

Mr. KNOWLES: May I ask Mr. Edwards or Mr. Hewitt-White if they have any comment to make on the references in two of the acts and the comments of the Minister on this question of political freedom.

Mr. EDWARDS: We do not have any comments to make at this time. We might like to make a comment when the Committee is interviewing witnesses at some time later.

Mr. BELL (*Carleton*): I wanted to raise that matter, Mr. Chairman, from the point of view of our getting as much basic research information available to the Committee as possible. I believe that the Civil Service Commission probably have available a full survey of the position on political participation of civil servants in other democratic jurisdictions including the provincial jurisdictions.

I wonder if it would be possible for the joint Chairmen or for the Clerk of the Committee to ask the Civil Service Commission if a full memorandum covering this situation might be made available to the Committee and at an early date? I think if it could be made available on an objective basis—we will not call it dignified with a White Paper—but in that objective way, for example, that the material on capital punishment was presented to the House, shall we say. I think all members of the Committee do want to have the basic research material. I have undertaken some of it myself and I do not really want to go any further if it can be done for us in a central way.

Mr. KNOWLES: I would also like to urge the federation, if I may, to give us the benefit of their thinking on this question. Perhaps I might make the point that with respect to most of the bill you are presented with the government's draft and, while the government is willing to consider changes, this is the quintessence of its thinking. But in respect of the political activity question, though there are precise words in two of the bills, the government, I think, in all fairness, has said this is wide open for discussion. I think, if I may say so, does it not give you a little more freedom to comment. I would hope that you might give us a brief on this subject.

Mr. EDWARDS: Well, we would be happy to comment on this, Mr. Knowles, but we were not really aware of the government's position until Mr. Benson made his statement on this, and this was a matter of a couple of nights ago. As you probably know, it has been a very hurried attempt to meet the Committee's objectives in having this material placed before them so it could be on the records.

We felt that we would have an opportunity to appear before the Committee when your Committee meets again to discuss various aspects of the proposed legislation and certainly I hope at that time—I know at that time—we will be quite prepared to discuss this very important question with you.

Mr. BELL (*Carleton*): I think that same invitation ought to be made, Mr. Chairman, to the association and to the Professional Institute. I am sure the Committee would like to hear all the representative staff associations on this very important subject.

The JOINT CHAIRMAN (*Mr. Richard*): Well, I think I indicated that after each brief the members of the associations would be invited to come back at future sittings when we are considering this legislation. And by no means did we consider that this was the last presentation. They were only reading their briefs and we would want the opportunity to question them on the contents of their briefs or any other remarks which they may want to make on the legislation in the future.

But I do agree with your suggestion about political partisanship. At your suggestion, a few weeks ago I started to try and find the legislation which related to political activities of civil servants in other provinces, and that is quite a job if you do not know how to go about it.

The Civil Service Commission or some other agency have already gathered some information. I think we should ask our clerk to obtain all that information and submit it to the members of the Committee so that we may be better informed when the time comes to study this particular feature of the legislation.

Mr. WALKER: Mr. Chairman, I do not think we should ask an association to put it in the form of a brief at all.

The JOINT CHAIRMAN (*Mr. Richard*): No, no, we are not. It would be the Civil Service Commission. We would have to ask the Commission.

Mr. WALKER: All right.

Mr. BELL (*Carleton*): Well, personally what I would like to see is to get our basic research material before the Committee and then I would like to have the federation, the association and the institute comment on the basis of that knowledge which, I think at the moment, may not be available to all of them.

The JOINT CHAIRMAN (*Mr. Richard*): I quite agree, Mr. Bell.

Mr. KNOWLES: I would also hope that the federation, the association, the institute and others, would feel free at some future time to comment on what Mr. Benson has said about some of the matters covered in your brief, in the statement he made after you had prepared the brief. I have in mind, for example, your statement about the dispute settlement on page 8 having to do with section 36. Mr. Benson dealt at some length with this in his statement to this committee a couple of days ago. I assume that this was prepared before he made that statement. I have some comments to make on what Mr. Benson said, and I think we would be glad to have further comments from your federation and the others on this.

The JOINT CHAIRMAN (*Mr. Richard*): Well, gentlemen, I think we have concluded this meeting. I want to thank once again the representatives from the Civil Service Federation.

Mr. BELL (*Carleton*): When will we be meeting again, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): You might appreciate, Mr. Bell, that at the present time we cannot hope to meet immediately because next week, for one thing, there are no rooms available for any committee.

An hon. MEMBER: Why not?

The JOINT CHAIRMAN (*Mr. Richard*): Well, those are the instructions I have received. For one thing, the rooms are taken up by the Caribbean Ministers

Meeting, and the two or three committees which are meeting, I understand are on estimates. Secondly, we have no more briefs available at the present time.

Mr. BELL (*Carleton*): Well, I appreciate the importance, Mr. Chairman, of the Caribbean Ministers Conference, but these are the Parliament Buildings in which the business of the Government of Canada is conducted and I would suggest that the Caribbean Ministers go to the Chateau Laurier or some other place and let the Government of Canada be carried on in the place where it is supposed to be carried on.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I did not say that in that manner and I am sure it has nothing to do with my decision. I would be quite willing to have meetings as long as the House is sitting but, at the present time, there are other briefs to come which are not ready and I do not think it would be wise to start on some other angle of our presentations without having had all the briefs before us.

Mr. KNOWLES: Cannot other organizations—

The JOINT CHAIRMAN (*Mr. Richard*): Well, apparently the CLC is one and the postmasters—

Mr. KNOWLES: I just wanted that on the record.

The JOINT CHAIRMAN (*Mr. Richard*): The Union of Postal workers. Pardon me?

There are at least three now who have indicated that they will have briefs.

Mr. WALKER: Did they give the dates when they will present their briefs?

The JOINT CHAIRMAN (*Mr. Richard*): Well, late in July. Some time after the middle of July. The CLC consider this a very serious matter, so Mr. Jodoin told me in his letter. He will try to have the brief ready sometime in the middle of July. Since he considers that this is a very serious matter he would like to take sufficient time to prepare the kind of brief he wants to submit. At the present time there is nothing further that can be done.

Mr. BELL (*Carleton*): Well, we have put pressure upon the staff association to be here this week. So far as I am concerned, if the House is sitting next week, I think we should go ahead.

The CHAIRMAN: On what, Mr. Bell?

Mr. BELL (*Carleton*): On detail. Let us bring Mr. Benson back and examine him. I venture to suggest that this is a matter which is too important just to be left over for the fall.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I am going to suggest that what we are doing now should be done in a steering committee. I am quite willing, as a result of your representations, that we should call a meeting of the steering committee. I think that is the proper place for everyone to be in a position to say what they have to say on the order of business in the future.

I will not make my own comments and that is why I am suggesting that it should be before a steering committee.

Mr. KEAYS: Mr. Chairman, are we going to have copies of the Minister's opening statement?

The CHAIRMAN: The Clerk has informed me that we will have a copy of the statement in a day or two.

May I have a motion to adjourn?

Mr. KNOWLES: The way Mr. Bell was speaking it looks as though we should keep the House going another two or three weeks.

An hon. MEMBER: You seem to be able to handle that very well.

Mr. BELL (*Carleton*): I would suggest that we keep the House going till the end of July and finish off the business and get the Government of Canada up to date for a change.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure you are not the only one who feels that way; we all feel the same way. We all want to stay until the end of July and finish the business of the government in an orderly manner.

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 7

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

THURSDAY, OCTOBER 6, 1966
FRIDAY, OCTOBER 7, 1966

WITNESSES:

Mr. C. A. Edwards, President, Civil Service Federation of Canada; Mr. James P. Dowell, Director of Education, Canadian Union of Public Employees; Messrs. Claude Jodoin, President, and A. Andras, Director, Government Employees Department, Canadian Labour Congress; Messrs. W. Kay, National President, and R. Otto, Vice President, Canadian Union of Postal Workers; Mr. J. M. LeBoldus, National President, Canadian Postmasters' Association; Messrs. R. Decarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate
Senators

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Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mrs. Quart,
Mr. Roebuck—12.

Representing the House of Commons

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Mr. Bell (*Carleton*),
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Mr. Chatterton,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Faulkner,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

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Mr. Leboe,
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Mr. Ricard,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

¹Replaced by Mr. Hopkins

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDER OF REFERENCE

WEDNESDAY, October 5, 1966.

That the name of Mr. Hopkins be substituted for that of Mr. Caron on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

REPORTS TO THE HOUSE

THURSDAY, June 23, 1966.

The Special Joint Committee of the Senate and the House of Commons on the Public Service had the honour to present its

FOURTH REPORT

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented.

Respectfully submitted,

Concurred in June 27, 1966
See Order of Reference Page 193

THURSDAY, June 23, 1966.

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

FIFTH REPORT

Your Committee recommends that the House of Commons section be granted leave to sit while the House is sitting.

Respectfully submitted,

JEAN-T. RICHARD,
Joint Chairman.

Concurred in June 27, 1966
See Order of Reference Page 193

MINUTES OF PROCEEDINGS

THURSDAY, October 6, 1966.

(12)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 11.20 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: Nil.

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Fairweather, Hopkins, Hymmen, Keays, Knowles, Leboe, Orange, Richard, Tardif, Walker (12).

In attendance: Mr. C. A. Edwards, President, Civil Service Federation of Canada; Mr. James P. Dowell, Director of Education, Canadian Union of Public Employees.

The Chairman, Mr. Richard, opened the meeting by indicating which organizations will be presenting briefs to the Committee.

On a request from Mr. Fairweather, the Clerk of the Committee was instructed to obtain a copy of the Final Report of the Governor's Committee on Public Employee Relations for the State of New York, published 31 March, 1966.

The Committee agreed with a suggestion from Mr. Bell that the memorandum dated 15 August, 1966, submitted to the Committee by the Civil Service Commission on the Subject of Political Activity of Public Servants, be printed as an appendix to the proceedings of this day. (*See Appendix I*)

The Chairman invited the Civil Service Federation of Canada to present its supplementary brief on Bill C-170 and Bill C-181. The spokesman then presented two additional briefs representing the resolved differences between the Civil Service Association of Canada and the Civil Service Federation under the merging of the two groups into the Public Service Alliance.

The Committee heard a brief presented by the Canadian Union of Public Employees.

On motion of Mr. Orange, seconded by Mr. Hopkins, a letter from the Montreal Regional Council of the Civil Service Federation concerning bargaining at the regional level concerning local matters, was accepted by the Committee as an appendix to this day's proceedings. (*See Appendix J*)

The meeting was adjourned at 12.30 p.m. to 3.30 p.m. this same day.

AFTERNOON SITTING

(13)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada resumed its meeting this day at 3.37 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Deschatelets, O'Leary (*Antigonish-Guysborough*) (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hopkins, Hymmen, Isabelle, Keays, Knowles, McCleave, Munro, Orange, Richard, Tardif, Walker (13).

In attendance: Messrs. Claude Jodoin, President, A. Andras, Director, Government Employees' Department, Canadian Labour Congress.

On a motion of Mr. Chatterton, seconded by Mr. Tardif, the Committee unanimously agreed to ratify the proceedings of the morning sitting.

The Committee heard the Canadian Labour Congress brief on the three Bills before it. The CLC undertook to provide a listing of government employee groups which are affiliated with the Congress.

At 4.55 p.m., the Chairman, Mr. Richard, adjourned the meeting to 9.30 a.m. the following day.

FRIDAY, October 7, 1966.

(14)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.42 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Deschatelets, O'Leary (*Antigonish-Guysborough*) (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Faulkner, Hopkins, Hymmen, Knowles, Leboe, McCleave, Ricard, Richard, Tardif (11).

In attendance: Messrs. W. Kay, National President, R. Otto, Vice President Canadian Union of Postal Workers; Mr. J. M. Le Boldus, National President, Canadian Postmasters' Association; Messrs. R. Decarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

Following the reading of the briefs from the Canadian Union of Postal Workers, the Chairman, Mr. Richard, at the request of CUPW and the Committee, read into the record an exchange of telegrams between the group and the Prime Minister concerning the Montpetit Commission of Inquiry into Working Conditions in the Post Office. (*See Evidence*)

The Committee was presented briefs by the Canadian Postmasters' Association and the Letter Carriers Union of Canada.

At 11.20 a.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 6, 1966.

● (11.20 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Order. I see a quorum. Before proceeding with the regular business which is the—

Mr. KNOWLES: Where is the Senator?

The JOINT-CHAIRMAN (*Mr. Richard*): I did not expect that you would bring this matter up, Mr. Knowles, but I have been advised that we can get this meeting at least ratified at the next meeting when the Senator will be here, if you agree?

Mr. KNOWLES: If you will support my bill to abolish the Senate, I will agree!

The JOINT-CHAIRMAN (*Mr. Richard*): Well, I will do that after I get in there.

Order. Since the last meeting we have received a number of briefs from different organizations, which were sent to all the members of the committee, and also the secretary to the committee has prepared an index of recommendations or services which was also forwarded to the members of the committee for their scrutiny, examination and assistance.

I understand Mr. Fairweather and Mr. Bell have a few questions which they want to put before we proceed with the meeting.

Mr. FAIRWEATHER: Mr. Chairman, I just have a request.

There is a special report which has been prepared by a group of university people for the Governor of New York on collective bargaining in the public service of New York State. I understand it is a very interesting and definitive work, and I would request that the secretary write to the officials in Albany and get a copy. I do not say it should necessarily be tabled, but it would be nice to have it as part of our record, if that is agreeable.

The JOINT-CHAIRMAN (*Mr. Richard*): Is that agreeable?

Agreed.

Mr. BELL (*Carleton*): At the last meeting, as appears at page 255, I made a request that the Civil Service Commission should prepare basic research material on political activity of public servants. A document was prepared by the secretary of the Civil Service Commission, and distributed. It is dated August 15. I think this should have as wide circulation as possible early in our proceedings, and I would like to propose that the memorandum prepared by the secretary of the Civil Service Commission, dated August 15, 1966, on the subject of political activity of public servants, be made an appendix to today's proceedings.

The JOINT-CHAIRMAN (*Mr. Richard*): Is that agreeable?

Agreed.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other preliminary matters to be discussed?

I might say, for the information of all the members, that after the briefs listed for this morning and this afternoon have been read, we will proceed with hearing a brief presented by the C.L.C. through Mr. Andras this afternoon instead of next week because that date is not suitable to them.

The first brief to be presented this morning is a supplementary brief from the Civil Service Federation. Mr. Claude Edwards.

Mr. C. Edwards, President of the Civil Service Federation: Thank you, Mr. Chairman. Honourable members, I would like to make just a short supplementary statement—and we seem to be using the term supplementary in briefs and so on, all the time. Since we last met with your committee, the Civil Service Federation and the Civil Service Association of Canada have agreed to merge and form a new organization—a new body—called the Public Service Alliance, and as a result of that the representatives of the two organizations on the provisional committee of the Alliance have examined the provisions previously put forward by the two organizations separately and we have prepared short papers giving the position now of the new organization, as closely as we can develop it, in reference to any areas that might be considered areas of disagreement previously between the two organizations.

The first brief which I would like to read is the supplementary brief which was spoken of at the last committee meeting when the Federation was asked to prepare some supplementary material in regard to areas of the bill on which we had not previously commented. We have done this and this was delivered to the committee, I believe, early in August. The other three supplementary bills you have have just received today. Unfortunately, we have not as yet received the French translation of the last two; we apologize for this, and we will have the French translation in your hands within a matter of a day or two.

The attached supplementary brief on Bill C-170—"An Act respecting employer and employee relations in the Public Service of Canada" and on Bill C-181—"An Act respecting employment in the Public Service of Canada" is submitted further to the brief presented to the Parliamentary Committee on June 30th, 1966, by the Civil Service Federation of Canada.

The original intention of the Civil Service Federation, as noted in the initial brief, was to refrain from commenting on those clauses of the Bill where it is believed the language might be improved or the intent of the legislation more clearly or appropriately expressed. The view taken was that the committee would be concerned primarily with the broad principles of the legislation and in consequence the brief then presented reflected this expectation. The Chairmen of the joint committee did, however, particularly invite the submission of a supplementary brief by the Federation of observations in the former area.

It was also suggested that the Civil Service Federation might wish to express an opinion on the subject of participation by public servants in the field of political activity. The views of the Federation in response to this suggestion are also contained in this supplementary brief.

*Bill C-170—Remaining Areas of Principal Concern.*1. Section 2(p) "*Grievance*"

For the reason stated on page 12 of the initial brief under the heading "Processing of Grievances", it is recommended that after the word "employee" in the third line, the following be inserted, "or by the bargaining agent of an employee or group of employees".

2. (a) Section 2(u) (iv) "*Persons employed in a managerial capacity*"

Because of the broad meaning associated with the term "Personnel Officer", it is recommended that the words "Personnel Administrator" be substituted in lieu.

(b) Section 2(u) (vii)

The words "tend to" in the fourth line are considered superfluous and should be deleted. The duties and responsibilities of the individual to the employer will indicate whether a conflict of interests exists.

3. Section 7 "*Right of Employer*"

As worded, this section is too restrictive and prohibits any objections being raised by the bargaining agent to possible unrealistic groupings of employees by the employer. It is recommended that the phrase "Subject to the provisions of any collective agreement" precede this section as now worded.

4. (a) Section 8(2) (c) (ii) "*Discrimination against members and intimidation*"

The phrase "or proposed to be employed" in the penultimate line of this sub-clause is considered to be too indefinite and in consequence, open to misapplication. It is recommended that these words be deleted.

(b) Section 8(2) (c) (i) and Section 8(2) (c) (ii)

Membership in an employee organization should be a bargainable issue and not just a continuance. It is recommended that the referenced sub-section be re-structured, as follows:

After the word "employee" in the fourth line of sub-section (3) (2) (c) add the words "except as otherwise provided in a collective agreement"

(i) to continue to be, or

(ii) to become, refrain from becoming or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act; etc.

5. Section 20(1) "*Complaints*"

As worded, this sub-section infers permissive action by the board whereas it should be mandatory. It is recommended that the word "may" in the first line be deleted and the word "shall" inserted in lieu.

6. Section 23 "*Questions of law or jurisdiction to be referred to Board*"

To emphasize a degree of urgency and to obviate untoward delay in the action by the Board, it is recommended that the word "forthwith" be inserted after the word "determination" in the sixth line of this section.

7. Section 41(4) "*Revocation of certification of employee organization*"

In our view, the Board should not be empowered to revoke the certification of an employee organization, on application of another person, until a representation vote is taken. In consequence, it is recommended that this section be amended, as follows:

"After hearing any application under sub-section (1), the Board shall *not* revoke the certification of an employee organization as bargaining agent for a bargaining unit *until* it is satisfied, *through the taking of a representation vote*, that a majority, etc."

8. Section 43(1) "*Certification obtained by fraud*"

Inasmuch as fraud should be clearly established before certification of a bargaining agent is revoked, it is recommended that the words "it appears to the Board that" in the first line be deleted.

9. Section 53 "*Request for conciliation*"

To avoid any delay in the appointment of a conciliator, a reasonable time limit should be established. Accordingly, it is recommended that the word "may" in the sixth line be deleted and the words "shall, within seven days or within such other period as is agreed on by both parties", be inserted in lieu.

10. Section 70(3) "*Matters not to be dealt with by award*"

This subsection is considered to be too restrictive in content. It is believed that the standards, procedures or processes governing the appraisal, promotion, demotion, transfer, lay-off or release of employees should be subject to negotiation and therefore also arbitrable. It is recommended that the words "appraisal, promotion, demotion, transfer, lay-off or release" be deleted from the third and fourth lines.

● (11.30 a.m.)

11. Section 73(2) "*Limitation on term of award*."

It is considered that both limits of time on the term of an award should be specified. It is recommended that the words "not more than two years" be inserted after the words "one year" in the fourth line.

12. Section 73(3) "*Term of award made next following initial certification*."

Because the initial period may not apply as in subsection 73 (3), in that certification may only take place several years hence, it is important that subsection 73 (2) modify subsection 73 (3). It is recommended that subsection 73 (3) be renumbered as 73 (1) (c) and thus have the limitation in subsection 73 (2) contain the reference "paragraph (a), (b) or (c) of subsection (1)."

13. Section 75 "*Reference back to arbitration tribunal*."

As it is considered that the decision to refer any matter in dispute back to the arbitration tribunal would be quite properly made by the board, it is recommended that the words "to him" in the third line be deleted and the words "the board" be inserted in lieu.

14. Section 86 (3) *Matters not to be dealt with by report.*

For the reasons given in recommending the amendment to subsection 70 (3), it is again recommended that the words "appraisal, promotion, demotion, transfer, lay-off, or release" be deleted from lines three and four.

15. Section 86 (4) *Reconsideration of matters contained in report.*

It is suggested that this subsection be based on section 29 (4) of the Ontario Labour Relations Act. Accordingly, it is recommended that the words "reconsider and" be deleted in line four.

16. Section 90 (3) *Right to be represented by employee organization.*

It is considered that representation must be made by a certified bargaining agent and it is recommended that the words "employee organization" be deleted in lines four and five and the words "bargaining agent" be inserted in lieu.

17. Section 96 (5) *Action to be taken by employee or employee organization.*

It is considered that the employee organization referred to would be acting in the capacity of the bargaining agent. In consequence, it is recommended that the words "employee organization" be deleted where they appear in two instances in this subsection and the words "bargaining agent" be inserted in lieu.

18. Section 97(2) *Where no adjudicator named in agreement.*

In respect of the costs payable by the person presenting the grievance, it is recommended that the maximum costs be specified. It is considered that costs should not exceed \$250.00 for any one action.

19. Section 99(1) (h) *Authority of the board to make regulations respecting grievances.*

It would appear that the word "employer" in line two is a typographical error and should be "employee". Assuming this is the case, it is considered that the reference to "employee organizations" is incorrect and should be replaced by the term "bargaining agents".

With reference to Bill No. C-181, section 32 political partisanship.

The following comments reflect the opinion of the Civil Service Federation on the subject of participation by public servants in the field of political activity.

The Civil Service Federation of Canada supports a relaxation of the prohibition against partisan political activity by public servants.

In the view of the federation, permissive political activities by public servants should include the right of the individual, on behalf of his own candidacy, to participate in municipal and local politics without restriction and subject only to a code of conduct and ethics for government employees.

In the realm of provincial and federal political activity, we are of the opinion that the public servant should be permitted to proceed on leave of absence without pay in order to be a candidate in a provincial or federal election.

In the event a public servant is elected to a provincial or federal office, we believe the regulations requiring his resignation from the public service must be attended with a provision which permits his re-appointment on ceasing to be an elected political representative.

The federation is also of the opinion that, except on leave of absence without pay, a public servant should not: (a) canvass on behalf of a candidate in a provincial or federal election, or (b) speak in public or express views in writing on behalf of a provincial or federal political party.

I would like to deal first with the supplementary brief to the parliamentary committee on Bill No. C-170.

As members of the parliamentary committee are aware, the Civil Service Federation and its affiliates and the Civil Service Association of Canada, during the past few months have agreed to merge and form a new organization called the Public Service Alliance of Canada. As a consequence of this merger, the two organizations making up the Public Service Alliance, the Civil Service Federation and the Civil Service Association, have agreed to resolve differences in their position with respect to Bill No. C-170. This brief presents the new single view of the two organizations with respect to those sections of the bill where the two organizations had previously expressed some difference of opinion.

Section 11—The Public Service Alliance is of the opinion that the matter of consultation with the government on the appointment of chairman of the board, vice-chairman of the board, chairman or members of the arbitration tribunal or adjudicators, should be an informal one and not covered in the legislation as a requirement. We do not believe the government would appoint people to these positions without consultation and we believe an informal system of consultation is preferable to a formal one.

Section 11(c)—The Public Service Alliance agrees with the provisions of the bill that provide for a longer term for the chairman than the members of the board. They also believe that the chairman, vice-chairman and members of the board, should be subject to removal without a joint address of the House and Senate, since there well may be circumstances where we may petition for removal by the Governor in Council on a confidential basis because of inability of a member to carry out his duty. It might be well nigh impossible to remove a member for just cause if it could only be done by a joint address of the House and Senate. Removal by the Governor in Council, however, should only be for cause and after consultation with the interested party.

Section 19(1) (d)—In its brief to the Parliamentary Committee, the Civil Service Association of Canada suggested an amendment to this section so that a decision of the Public Service Staff Relations Board should be appealable to the Canada Labour Relations Board. The C.S.A.C. is now prepared to withdraw this view in favour of that of the P.S.A.C. which believes that the Public Service Staff Relations Board should be the final authority in the making of regulations governing its powers and duties.

Section 19(2)—The Public Service Alliance does not support the position that appeals should be made to the Cabinet and with this the Civil Service Association of Canada now concurs. The Public Service Alliance believes that the Public Service Staff Relations Board should review its own decisions.

An appeal with reference to the board exceeding its authority should be through the courts.

Section 23—The Public Service Alliance agrees with the section of the act as worded with the addition of the word "forthwith" following the word "determination".

Section 28—The P.S.A.C. agrees with this section of the bill as presently worded.

Section 35(1)(d)—The P.S.A.C. accepts this section of the bill as presently worded.

Sections 36(1) and 37—The P.S.A.C. concurs in the position of the Civil Service Association of Canada with regard to this section. We believe it is appropriate for the bargaining agent to signify the option for dispute settlement at the time there is an impasse in bargaining and not before.

Section 44—The Public Service Alliance accepts this clause as presently worded.

Sections 45 and 47—The Public Service Alliance agrees with the Civil Service Association's request for clarification of both these sections.

Section 51(b)(iii)—The Public Service Alliance accepts the proposition of the appointment of a conciliation board or conciliation by the chairman. We believe a request for a conciliation board should be acted on with despatch and making the appointment a requirement by the board could delay the process.

Section 71(2)—The Public Service Alliance has reviewed the concept of minority or majority reports and believes that decisions should be a decision of the board or arbitration tribunal and should be over the signature of the chairman. The Civil Service Association now supports this view.

Section 74—The Public Service Alliance is prepared to accept the 90-day period for implementation providing this does not preclude any agreement or retroactivity of the award.

Section 75—The Public Alliance supports the position of the Civil Service Association in this clause, namely that the board, rather than the chairman, should refer a matter back to the arbitration tribunal.

Section 78—The Public Service Alliance is prepared to accept the decision of the chairman with regard to the appointment of a conciliation board but believes section 25 should be amended to permit the board to review, not only its own decisions, but decisions of the chairman, members and officers of the board.

Section 79(1)—We agree that "safety and security" should be defined.

Section 80(2) and (3)—Once again we accept the decision of the chairman, provided that section 25 is amended to permit a review by the board of the chairman's decision.

Section 83—The Public Service Alliance accepts this clause, subject to the power of review by the board.

Section 86—The Public Service Alliance is quite prepared to accept the decision of the chairman but, again, would make his decisions subject to review by the board.

Section 97—The Public Service Alliance position in respect of this section is that since provision can be made in the agreement for the appointment of a conciliator and in the event of a conciliation board, both parties may nominate a member, if the parties fail to make provision in the agreement, or do not want a board, they should not have a choice in the assignment of a negotiator. Departmental Components. Since the Alliance will be composed of components within a department that differ in some respects from the former Departmental Associations of the Federation, the references to Departmental Associations should be somewhat modified. The Alliance believes that Departmental components that represent the majority of employees in a department should be given exclusive rights to deal with departmental matters that are not prescribed by a collective agreement bargained at the centre.

● (11.40 a.m.)

Reference to Bill No. C-181. Both the Civil Service Federation of Canada and the Civil Service Association of Canada presented their views on Bill No. C-181. There is no conflict in these views. Each of these organizations supports the views already put forward to the Parliamentary Committee by the other organization. There are, however, certain sections of the Bill where both organizations, while agreeing with the views put forward by the other organization, have referred to different aspects or parts of these sections. In order that there may be no misunderstanding in the minds of the members of the Parliamentary Committee as to our agreement on these sections, we wish to refer briefly to them here.

Section 6 Re: Delegation of Authority on Appointment

The Civil Service Association of Canada (C. S. A. C.) states that, should this delegation of authority be abused, then the Civil Service Commission should be required to make a full report, naming the department or departments involved, in its annual report to Parliament. The Civil Service Federation of Canada (C. S. F.) has stated that, in its view, potential abuses of the delegation of authority might be averted if the Civil Service Commission were required to conduct pre-audits as well as post-audits of appointments by departments. Both organizations support the view enunciated by the other with respect to this section.

Section 10 Re: Appointments and Selection Standards

The C. S. A. C. proposes that the word "process" as used in this section should be subject to clear definition. The C. S. F. also stated that there should be a much clearer definition of the words "or by such other process", and also suggested that wherever possible all appointments should be by competition. Both organization are, therefore, of a common view on this section.

Section 11 Re: Appointments and Selection Standards

The C. S. F. considers that section 11 as worded in the Bill is inadequate and states that the Civil Service Commission should be required to demonstrate that qualified people are not available in the Service before resorting to appointments from outside the Service. The C. S. A. C. has made no specific recommendation on this section in its brief but agrees with the view expressed by the C.S.F.

Section 17 Re: Eligible Lists

The C. S. A. C. objects to the fact that there is no requirement in this section that eligible lists should be published in the Canada Gazette. The C.S.F. believes that eligible lists should be valid for a period of not less than one year although agreeing that the maximum length of time for the continuance of eligible lists might well be determined by the Civil Service Commission. Both the C.S.A.C. and the C.S.F. support the views put forward by each other.

Section 21 Re: Appeals

The C. S. F. objects to the fact that this section makes no provision for the right of appellants to be represented by their staff associations. The C. S. A. C. does not refer to this section in its submission to the Parliamentary Committee but supports the objection expressed by the C. S. F.

Section 26 Re: Resignations

The C. S. A. C. points out that, unlike the corresponding section in the previous Civil Service Act, this section makes no provision for Deputy Heads acknowledging in writing notices of resignation given in writing by employees. The C. S. A. C. considers that such a provision should be included in this section. It also proposed that the written acknowledgment by the Deputy Head should indicate that separation will be effective as indicated in the employees' notice. With these views, the C.S.F. wholeheartedly agrees.

Section 27 Re: Abandonment of Position

The C. S. A. C. points out that this section makes no provision for special circumstances by which an employee may involuntarily have vacated his post for a period of one week or more. It refers to cases such as those of a civil servant who may suffer a serious accident while on leave in some distant city or part of the country. The C. S. F. agrees with the C. S. A. C. that this section should make provision for such special circumstances.

Section 28 Re: Probation

The C. S. A. C. points out that the present Civil Service Act sets a time limit of one year as a maximum period for employees to be on probation and suggests that subsection 1 of this section include a similar provision. The C.S.F. agrees with this view.

The C.S.A.C. points out that subsection 3 of this section does not require, as does the present Civil Service Act, that Deputy Heads should detail reasons for decisions to reject employees for cause during the probationary period and recommends that this requirement be incorporated in the present bill. The C.S.F. agrees with the recommendation of the C.S.A.C. in this respect. The C.S.F. does not believe that the reasons for cause need to be spelled out in the legislation but they should be spelled out in the regulations pursuant to the legislation.

Section 29 Re: Lay-Offs

The C.S.A.C. recommends that this section should specify that with respect to lay-offs and rehiring the policy of "last off first on" should prevail. The C.S.F. agrees with this point of view.

The C.S.F., in looking at this section and also at section 37, proposes that, with respect to re-appointment, the following order of priority should be adopted: (1) persons on leave of absence, (2) lay-offs, (3) ministerial assistants previously employed in the Public Service, (4) ministerial assistants not previously employed in the Public Service. The C.S.A.C. agrees with this point of view.

Section 31 Re: Incompetence and Incapacity

The C.S.A.C. proposes that incompetence should be capable of definition and should be so defined in the legislation. The C.S.A.C. also points out that the appeal provision as proposed in subsection 3 of this section is unsatisfactory in that it makes no provision for appellants to be represented by their staff associations and proposes that this subsection be amended to provide that employees should have the right to be represented if they so desire. The C.S.F. agrees with the proposals of the C.S.A.C. and, in addition, considers that any action which may give Deputy Heads the right to recommend release for alleged incompetence or incapacity should be subject to grievance procedure as provided for in the Public Service Staff Relations Act.

Section 32 Re: Political Partisanship

Both the C.S.F. and the C.S.A.C. have expressed their views on this matter. Both support the view of the other that public servants should be as free as any other citizens to take a normal interest in the political affairs of their country and to support whatever party or candidates they desire saving only that they should not, while occupying posts as public servants, speak openly or canvass openly on behalf of a particular provincial or federal candidate or a particular provincial or federal political party.

BILL C-182

Introduction

While the C.S.F. has not yet made specific representations to the Parliamentary Committee on Bill C-182 the C.S.A.C. has expressed some concern about section 7, particularly subsections (d) to (i), which invest the Treasury Board with the authority to determine pay and conditions of employment, particularly during the transitional period before the actual commencement of collective bargaining. The C.S.A.C. proposes that the authority of the Treasury Board to determine pay and conditions of employment during the transitional period should be limited by transitional provisions which would provide that present conditions shall continue unchanged until changed by collective agreements under collective bargaining. The C.S.F. agrees with the view expressed by the C.S.A.C. in this respect. The C.S.F. is also concerned that section 7 specifically provides for the determination of pay and conditions of employment under subsections (d) to (i) inclusive "notwithstanding any other provision contained in any enactment". The C.S.F. feels that such powers of determination should be subject to the provisions of collective bargaining as spelled out in the Public Service Staff Relations Act. The C.S.F. proposes, therefore, that in subsection 1 of section 7 there should be inserted following the words "contained in any enactment," the words "except as contained in the Public Service Staff Relations Act,". The C.S.F. feels that it is most essential that the Financial

Administration Act should not contain provisions which might be in conflict with those contained in the Public Service Staff Relations Act. The C.S.A.C. agrees with the views of the C.S.F. in this respect.

The C.S.A.C. has also expressed concern about the lack of right of appeal, particularly with reference to subsection 8 of section 7, which states that any order made by the Governor-in-Council is conclusive proof of matters stated in relation to the suspension or dismissal of persons in the interest of the safety or security of Canada or allied states. The C.S.F. endorses the concern expressed by the C.S.A.C. in this connection and suggests that subsection 8 of section 7 be amended to provide that following the words "Canada or any state allied or associated with Canada" there should be the following inserted, "except that any employee may, in person, or through his designated representative, appeal to the Governor-in-Council to review his dismissal". This merely requires that, upon request of a person affected by this section, the Governor-in-Council should be required to review its own decisions. This appears to both the C.S.F. and the C.S.A.C. as nothing more than a right which is already guaranteed under mandamus to every citizen under our common law.

● (11.50 a.m.)

The JOINT CHAIRMAN: Thank you very much, Mr. Edwards. As members will appreciate, my task will be made a little easier due to the fact that these two large organizations, the Civil Service Federation of Canada and the Civil Service Association of Canada, are now united in their views on the amendments which have been presented this morning.

Just for the information of the committee I was going to ask Mr. Edwards how many members does the Public Service Alliance of Canada represent now.

Mr. EDWARDS: It represents approximately 112,000 members.

The JOINT CHAIRMAN (*Mr. Richard*): One hundred and twelve thousand members. We will have the opportunity to hear you later when you come before us for questioning. Thank you very much, Mr. Edwards.

Mr. KNOWLES: Are questions not in order at this moment?

The JOINT CHAIRMAN (*Mr. Richard*): The next brief will be the brief of the Canadian Union of Public Employees, presented by Mr. Dowell, Director of Education. Has everybody got a copy of the brief?

Mr. J. P. Dowell (*Director of Education*): The brief of the Canadian Union of Public Employees.

Mr. Chairman, and members of the committee, may I extend my regrets that the National Clerk of the Committee of the Canadian Union of Public Employees is unable to attend today. He is bedridden with a serious bout of the flu. I have been assigned the task, and without any further ado I will get right into reading the brief. I assume that the gentlemen here like to eat on time, so I will try to read as quickly as possible.

Mr. Chairman and honourable members of the Committee, the Canadian Union of Public Employees submitting this brief appreciate the opportunity to express their views on Bill 170, respecting employer-employee relations in the Public Service of Canada.

CUPE has constantly supported and sought the introduction of collective bargaining for employees in the Public Service. This submission is, therefore, an extension of our views expressed at different times and on different occasions.

We recognize the fact that this special joint committee is not a forum for voicing our union policy and we wish to touch only upon matters covered by the terms of reference of the Committee studying and considering Bill C-170 which has been referred to it.

At the outset we should perhaps explain the make-up of our organization and how it functions.

The Canadian Union of Public Employees, an affiliate of the Canadian Labour Congress, is devoted exclusively to protecting the rights and improving the working conditions of Canadian Public Service employees. The largest Canadian Union, CUPE has a membership totalling more than one hundred thousand in seven hundred locals in all ten provinces. Our members are employed in hospitals, nursing homes, homes for the aged, public utilities, school boards, provincial governments, municipalities and their local boards, and commissions, Crown corporations, social agencies, penal institutions, libraries, universities, and other institutions under provincial and federal labour jurisdiction.

The Union has a long experience with labour-management relations in the Public Service and has been able to check in its daily experience the advantages and disadvantages of Canadian labour legislation and other related acts. The main objectives of the union under its constitution are: (1) the organization of workers generally, and in particular all workers in the Public Service of Canada; (2) the advancement of social, economic and general welfare of public employees; (3) the defence and extension of the civil rights and liberties of public employees and the preservation of free democratic trade unionism from attack or infiltration by communists, fascists or other hostile subversive influences.

- (d) The improvement of the wages, working conditions, hours of work, job security and other conditions of public employees.
- (e) The promotion of efficiency in public service generally.

(Article 2—Section 1)

Section 2 of the same Article provides, *inter alia*, that the objectives of the Union are to be accomplished through the following methods.

- (a) Establishing co-operative relations between employers and employees.
- (b) Promoting required desirable legislation.

We are therefore committed under our Constitution to make representation to the special joint committee of the Senate and of the House of Commons on employer-employee relations in the Public Service of Canada.

Changes are taking place in the last few years in public administration as a result of the progressive transformation of our country. These changes are reflected both in the psychological aspects of public administration as well as on the legal side.

By undertaking increasingly heavy and varied responsibilities in the economic and social fields, the federal government is assuming more and more the

character of an employer towards its employees. The government has become the largest employer in Canada and its work force comprises almost every occupation, trade and profession. Therefore, the effect of any system of collective bargaining which is established will have a sharp impact on employer-employee relations in all public enterprise, in the private sector of the economy and on labour relations legislation.

It is an error to suppose that public service is sealed off from the rest of the labour force of the nation. It is a large and integral part of this force.

Traditionally, all labour legislation is predicated on the concept that orderly collective bargaining is in the dominant public interest as well as that of the employer and employee, and that this can be best facilitated through the provisions of the Labour Relations Act.

I might clarify this reference to the Labour Relations Act. We are talking in federal terms, such as the Industrial Relations and Disputes Investigation Act.

If these provisions are considered to be beneficial to the ordinary employer and employee, it would appear that they would also be beneficial to employees subject to the Public Service Act.

The ILO Committee of Experts on Conditions of Work and Service of Public Servants, during its meeting in Geneva in November and December 1963, noticed, that "the rapprochement between labour law and public administrative law was more pronounced in some countries than in others". We do not intend today to dwell on the sometimes complex causes of these changes, the different forms in which they manifested themselves and their effects on the attitude of the State towards its employees.

In view of our previous remarks, we just wish to express our regrets that the Canadian Government did not suitably amend and overhaul the Industrial Relations and Disputes Investigation Act to cover the federal Public Service rather than to create separate machinery under this proposed legislation. The Industrial Relations and Disputes Investigation Act badly needs a thorough overhaul anyway and so evidently our legislators could have modernized our basic labour Law which predominantly affects an industrial sector of our economy and at the same time they could have extended the coverage of this Act to embrace "mutatis mutandis" employer-employee relations in the Public Service of Canada.

Instead, the Public Service Staff Relations Act emerged on the old and already outmoded basis of the Industrial Relations and Disputes Investigation Act as a new superstructure well fed again by an old-fashioned philosophy that relations of public employees to their employing agencies are different from those between employees and employers in the private sector. Many of us in the trade union movement see the proposed Act as a peculiar blend of areas of extremely rigorous legalistic definitions and wide generalities which may provide a rich field day for the lawyers.

● (12 noon)

Be it as it may, we expect and hope that the present legislation will be subject to changes as time goes on and until further changes are made then we have to live with Bill No. C-170 as amended by this Committee.

We believe that our comments are aimed at certain improvements so that the proposed law be freed from its major defects. To these ends, we respectfully submit this brief.

The proposed legislation is long, full of details, complex and difficult to comprehend. However, to all of us, familiar with the labour legislation in Canada, it is clear that it follows quite closely a pattern of our existing labour Laws.

The same matters that are dealt with in the Labour Acts and govern employees in the private sector, are also dealt with in the PSSR Act as well as some other additional matters that are "unique" to the Public Service.

Before we turn to individual sections of the Bill C-170 *seriatim*, we wish to make one general observation. Undoubtedly, the key person in the proposed legislation is the Chairman, of the Public Service Staff Relations Board. In addition to the normal duties and heavy responsibilities of a Labour Relations Board chairman, on his shoulders will fall the functions normally assigned to the Minister of Labour in industrial relations in the private sector. Throughout the bill, there is a tendency to grant abnormal powers to the Chairman. It is our recommendation that all provisions of the act dealing with unilateral decisions of the Chairman be so amended as to provide for authority to reside in the board. Other matters of a purely administrative nature, or routine business and some cases requiring quick action, such as appointment of members of conciliation boards and so on, should be left in the hands of the Chairman.

Bill No C-170 is excessively restrictive on both the employer and employee to work out their collective bargaining relations. It eliminates entire areas of conditions of employment from the realm of collective bargaining and restricts those areas in which collective bargaining may be exercised.

Section 7 (management rights) is too restrictive. We think that an amendment is needed to communicate clearly the intention of the legislation which is not to provide the Treasury Board with unilateral power to determine terms and conditions of employment without reference to the obligations imposed upon it as an employer by the collective bargaining legislation.

The prohibitions contained in Section 8 are rather wide in general but we are here mainly concerned with the words "or proposed to be employed in a managerial capacity" (section 8, subsection 2). This may be used as an excuse in certain cases of intimidation and discrimination against members.

Section 11(1) may indicate that an employee organization will be consulted about appointment of board members "of the interest of employee (employer)". However, subsection 3 is not specific enough and we would recommend an appropriate amendment to make sure that the board members are appointed after consultation with the employer and the employee organization.

It is our opinion that the appointment of the Chairman and the Vice-Chairman for ten (10) years as provided in section 11 (2), is too long and should be reduced to a maximum of seven (7) years. By the same token the appointment of members of the board should not exceed a period of five (5) years.

Section 13(1) and section 61(1) and section 80(6) involving the eligibility of board members are unduly restrictive.

Section 19(1)(k) in conjunction with section 28(1)(b): Powers and duties of the board are wide-reaching and it seems to us that any interference by the board regarding the relationship of employee organizations to each other and to the employees therein would be an unwarranted intrusion. It may be argued that the meaning of section 19(1)(k) is rather specific, as it says "for the purposes of this act", but then this provision is superfluous and should be deleted.

We submit that Section 22(e) should not allow members of the board to "interrogate any person respecting any matters", but this right should be strictly limited to matters pertaining to employer and employee relations in the public service.

Section 23: Arbitration and adjudication procedures should continue pending determination of the question of law or jurisdiction unless the board otherwise directs. In other words, we suggest that the procedure in the present section 23 should be reversed. This is to avoid inordinate delay in the disposition of grievances.

Section 36: We are opposed to arbitration of economic disputes in principle and we prefer and advocate a process of disputes settlement directly comparable to that provided in the Industrial Relations and Disputes Investigation Act. However, if we have to live for some time to come with two alternatives, separate and distinct dispute settlement processes, namely compulsory arbitration or the right of strike action, we would respectfully suggest that the choice should be made by the employee organization prior to the establishment of negotiations and not prior to the establishment of bargaining relationship.

Section 37(2): The restriction of three (3) years waiting before allowing for a change in the process of resolution of disputes seem unnecessary. It would appear to be more reasonable to limit it only to the life of a current collective agreement or arbitral award or leave it to a vote directed by the board any time following the application of the employee organization.

Section 38(5): There is no reason for the board to be compelled to wait 180 days before granting a request for a change in the process. There will be enough unavoidable delays in administering the act without inserting unnecessary, frustrating delays on a compulsory basis.

Section 39(2) (a) (b) and (c): Our union has constantly pressed for the grant of political rights for civil servants. Our argument is that public employees should enjoy full political rights as one of the fundamental social rights enjoyed by the rest of citizens of this democratic country.

In support of this argument, we deliberately quote the United Kingdom as an example in view of the adaptation of their methods in most of our public matters. The State employees in the U.K. enjoy the right of participation in national and local political activities and the right of joining and financially supporting political parties (with certain limitations in respect of the higher ranks of the administration). There is absolutely no restriction on the public servants contributing to the political fund of any political party if the trade unions desire to have such a political fund by majority decisions. In fact, the Union of Post Office Workers has a political fund from which they contribute to the labour party, and so on. In all advanced countries of Europe, Norway,

Sweden, Denmark, West Germany, France, Italy, Switzerland, Austria and Belgium, the State employees are granted full civil liberties and political rights.

We therefore urge most emphatically the deletion of Section 39(2).

Instead, we recommend inclusion of check-off privileges for all certified employee organizations.

Section 41(1): We would suggest to delete the words "any person" and replace them with "any organization of employees". This would be in conformity with the collective and representative nature of the proposed legislation.

Section 44(b): In view of what we said with regard to section 28 we suggest this sentence be deleted.

● (12.10 p.m.)

Section 56(2)(a): As it stands, this provision constitutes an absolute bar against inclusion in collective agreements of matters which are presently governed by independent legislation. It would also make it impossible for the bargaining agent to seek to effect legislative changes leading to improvement in the conditions of employment. The result would be a serious restriction of free collective bargaining. It is our belief that the Government should submit to Parliament any legislation or amendments to any existing legislation which may be required to give effect to a collective agreement. Of course, we realize that the action of the Government would be subject to the overriding authority of Parliament.

Section 57(3): If we understand correctly the language of this section, it provides for unreasonable time limits requiring that first collective agreement if entered into within 30 months after eligibility for collective bargaining shall expire no sooner and no later than at the end of that 30-month period.

Section 63(1)(b) provides for unresolved items to be referred to arbitration within seven (7) days after the signing of a collective agreement. We suggest that this paragraph be deleted because no arbitration should be granted after signing of a collective agreement unless the agreement specifically provides for the reference of such matters to arbitration. The amendment would avoid misunderstanding or even bad faith by either party which could appear to have dropped a request during negotiations without specifically agreeing to withdraw such request and, on conclusion of an agreement, surprises the other party by applying for arbitration on matters apparently dropped.

Section 70 (3-4) is too restrictive. We believe that although the arbitration in this sense is a substitute for collective bargaining, an arbitral award may deal with any term or condition of employment that could be referred to a conciliation board if the employee organization so elected under the act.

We suggest a deletion of the provision in the proposed subsection 4 of Section 70 which seeks to prevent the publication of reasons or material for information purposes relevant to an arbitration award. Such provision is unfair to the parties and encourages autocratic approach by an arbitration tribunal. It also deprives the parties of a possibility to study the award from technical and instructional point of view.

Section 71(1): Much of a value would be lost should the legislation bar the members of the tribunal from writing minority reports or making any com-

ments. We suggest a deletion of the words "and no report or observations thereon shall be made or given by any other member".

Section 74: Implementation of the award should not be extended beyond the 90 days except at the request of both parties.

Section 75: We would propose a deletion of the words "it appears to him" because it gives the chairman unprecedented power to have a second look at the arbitration award or a power to have the award reviewed at his sole discretion. This power, we recommend, should be given to the board.

Section 79(5): This subsection requires that the bargaining agent notify all employees in the unit who are designated employees. We propose a minor amendment. The board (or the employer) should notify these employees, as all of the employees in the unit are not necessarily members of the organization that is the bargaining agent.

Section 83 in conjunction with Section 86(4): We wish to express an objection to this Section. Actually this requires that the chairman of the board draw up the terms of reference on the items in dispute for the conciliation board. Where or how the chairman is to obtain his information on the items in dispute is not clear. Section 53 does not require the applicant for a conciliation to specify the item in dispute or the proposals of the parties. Even if this were required, some of the items could be resolved through the assistance of the conciliator. Again it could be that the information of the chairman would come from an application under Section 77 or consultation with the parties under Section 78. In any event it would seem that to define the terms of reference is a dangerous and unnecessary function for the chairman in this instance. We suggest that the parties themselves should define their terms of reference and proposals and that the chairman should have no function in this matter other than ruling in accordance with the limitations of the act whether or not the items in question were appropriate for collective bargaining. The power of the chairman to amend, add thereto or delete from the terms of reference would be unnecessary if the conciliation board was empowered to rule on the terms of reference based on the submissions of the parties and subject only to the restrictions contained in the act.

Sections 90, 91 and 94(2) deal with the right of employee to present grievances on his own behalf and to refer same to adjudication. We wish to point out that in collective employee-employer relationship this right is normally reserved to the bargaining agent under the terms of a collective agreement. On the other hand, we would have no objections that an employee who is not included in a bargaining unit, may seek assistance of any employee organization in processing of his grievance and presentation of his case. (Section 90, subsection 3).

Section 94(2) (b) would appear to provide the employer with a veto against the establishment of a board of adjudication. The chief adjudicator should have the power to appoint the board, when he finds the grievance properly placed before him.

Section 97 (2) makes a grievor liable to pay the cost of adjudication. It is a recognized fact and a well established procedure in labour relations that the

employer and the bargaining agent assume responsibility for such costs. This subsection of Section 97 should be abandoned accordingly.

Section 99(1)(j): This gives the board the power to refer back for reconsideration and allows for a different adjudicator. In other words, the employer has a second chance to have the grievance heard and the board actually acts as an agent for the employer. This paragraph should be deleted.

Last, but not least, we wish to question certain definitions in Section 2 of the bill. The present concept of management and exclusions is capable of extremely wide interpretation, and according to our opinion must be restricted to those employees who are directly involved in the development of the Government's personnel and financial programmes.

We further suggest an amendment of Section 2(m-v). Casual or temporary employees should also be considered "employee" within the meaning of the Act and be eligible to belong to a bargaining unit, especially when they have continued service.

Section 2 (t)(ii): In view of our argument regarding Sections 90 and 91, the definition of "party" should be amended to read "the employer and the employee or his organization".

A special comment is with regards to bargaining units. Unlike the report of the preparatory commission, Bill No. C-170 does not make any provision for a specific number of bargaining units. However, we note that there is a reference to five occupational groups in Section 2(r) of the bill. In our view, the 66 groups proposed by the preparatory commission are somewhat excessive and could lead to a multitude of bargaining agents. On the other hand, if the certifications issued by the public service staff relations board were limited to the five occupational groups, these groups would be too large to provide the community of interest and identity which is necessary for a group that are joined together for collective bargaining. We would, therefore, recommend that the board's powers be left as at presently indicated, but that it be the understanding that the board should take these matters into consideration in defining appropriate bargaining units. In conclusion we wish to paraphrase what we have said at the outset of this brief. We in the trade union movement contest a concept of the government being so sacrosanct that a kind of special sovereignty attached to government is considered compromised if the government bargains collectively with an organization of its employees.

We claim there are advantages both to governments and employers in recognition of and negotiation with employee organizations. Collective bargaining with employee organizations does not diminish the authority of the government, but rather assures the government of the loyalty and support of its employees.

By and large, Bill No. C-170 comes close to our concept and we wish the new collective bargaining law in the public service of Canada a fast and healthy development which would harness the talents, experience and knowledge of public servants for the benefit of our society and for economic and social progress of Canada.

On behalf of our president, Mr. S. A. Little, I submit the foregoing brief, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Dowell.

Mr. BELL (*Carleton*): Mr. Chairman, before we hear the next brief I wonder if we could put to Mr. Dowell the same question you put to Mr. Edwards, namely how many employees of the Crown in the right of Canada are members of the Canadian Union of Public Employees.

Mr. DOWELL: I do not know the exact figure, Mr. Chairman, but we talk about employees; we have the Saskatchewan mental hospitals.

Mr. BELL (*Carleton*): Crown in the right of Canada, not that have been taken off.

Mr. DOWELL: We do not have any. We have provincial and the Crown corporations.

Mr. CHATTERTON: Is there any affiliation between your organization and the Alliance or the previous Civil Service Federation?

Mr. DOWELL: None whatsoever.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I did receive a letter during the month of August from Mr. Durocher on behalf of the executive of the Montreal region of the C.S.F.—the Civil Service Federation—in which he wanted the committee to recognize the right of regional councils to negotiate on regional matters such as hours of work, language, stationing of cars, cafeterias, et cetera. It is a French letter and I was asked that it be included in the record if somebody would so move.

Agreed.

Now, this afternoon we will hear the representative from the Canadian Labour Congress, Mr. Andras, who will read their brief. That is the only business for this afternoon. We will meet after orders of the day.

Mr. KNOWLES: May I point out that we may have some difficulty today. The debate in the house may not last very long, and when we get to medicare, who knows what can happen.

Mr. WALKER: In other words, Mr. Knowles does not want to be here when the medicare debate is going on in the House.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think that is the way you would like to put it but we hope to be here because it is very difficult to ask these people—

Mr. KNOWLES: Will you try to get Jim Walker appointed to the Senate, before this afternoon?

The JOINT CHAIRMAN (*Mr. Richard*): No, there is no room for him.

Mr. KNOWLES: No room for him?

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, gentlemen. We will adjourn until after orders of the day.

AFTERNOON SITTING

● (3.40 p.m.)

The JOINT CHAIRMAN (*Mr. Richard*): Order. Gentlemen, before we begin the proceedings I would like to have a motion to approve the proceedings of this morning, which were held without the presence of the Senators.

Mr. CHATTERTON: I so move.

Mr. TARDIF: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved by Mr. Chatterton and seconded by Mr. Tardif.

Motion agreed to.

This afternoon we will proceed with the submission of the Canadian Labour Congress. I have with me at the table the president, Mr. Claude Jodoin and Mr. Andras, the director of the legislative and government employees department.

(Translation)

Mr. JODOIN: Mr. President, may I say first of all that we are very happy to have the opportunity to present a submission from our labour organization to the joint Committee of the Senate and House of Commons on the Public Service of Canada. I will ask immediately, if you think it necessary for us to read the document, since it was tabled some time ago. (*Monsieur le Président je voudrais vous remercier. . .*)

Mr. JODOIN (*English*): Mr. Chairman, I wish to express my appreciation, on behalf of the Canadian Labour Congress, of the opportunity to appear before your joint committee of the Senate and the House of Commons on the Public Service Canada and to present our submission to you. As you know, we made representation on July 25, 1966 to your Committee. I would like to know if you would prefer us to read the document itself or would you consider it officially as read, if you so desire; we are at your disposal.

The JOINT CHAIRMAN: The purpose of your coming here this afternoon, Mr. Jodoin, was to hear you read it, because it was understood that you would come back at a later date. I am sure the members would appreciate hearing you express your views, although I suppose most members have read the document some time ago.

Mr. JODOIN: We will do that, sir. My colleague and I have always worked in co-operation in the past and I presume if we share the reading of it it will not disturb the procedure.

Mr. Chairman and members of the committee, this submission is made to you by the Canadian Labour Congress, the major trade union centre in Canada. The Canadian Labour Congress represents some 1,286,000 members, a considerable number of whom are engaged in the public service, whether municipal, provincial or federal. In the federal field specifically it represents about 75,000 members. Some of these belong to what are commonly known as staff associations consisting exclusively of government employees; others belong to trade unions with members both in private industry and in the public service.

● (3.50 p.m.)

Regardless of the extent of its representative nature in the public service, the Canadian Labour Congress appears before you today because it has a very direct interest in any legislation which has to do with collective bargaining. Any such legislation passed by the Parliament of Canada is bound to have an influence beyond the federal jurisdiction. A considerable number of whom are engaged in the public service whether municipal, provincial or federal. In the federal field especially it represents about 75,000 members. Some of these

belong to what are commonly known as staff associations consisting exclusively of government employees, others belong to trade unions with members both in private industry and in the public service. Regardless of the extent of the representative nature in the public service, the Canadian Labour Congress appears before you today because it has a very direct interest in other legislation which has to do with collective bargaining and if such legislation is passed by the parliament of Canada, it is bound to have an influence beyond the federal jurisdiction.

We believe, moreover, that we are further justified in appearing here if only because we have very extensive experience with collective bargaining and with the legislation under which it is conducted in Canada today. Our views may, therefore, be of value to you in your deliberations.

Your terms of reference include Bills C-170, C-181 and C-182. Taken together, they will when enacted establish the frame of reference for the employer-employee relationship in the public service of Canada. For the first time, employees in the public service will enjoy the right to engage in collective bargaining, and to establish jointly with their employer the conditions of employment under which they are to work. This right is abridged in certain respects as we propose to indicate below.

The enactment of these bills and more particularly of Bill C-170 represents a landmark in the history of the public service of Canada. It is in its way comparable to the introduction of the merit principle in 1918. That legislation like Bill C-170 should be so long in coming is a matter of regret but its introduction is to be commended. It is in principle a progressive measure and we recognize it as such.

Broadly speaking, the purpose of labour relations legislation is to establish the rules under which labour and management are to deal with one another. Restrictions are imposed on both parties, the general purpose being to preserve and protect the right of association, to make for orderly relationships and to minimize the incidence of industrial conflict. Bill C-170 would seem to have the same purpose. It is, however, unique in one very important aspect and this, in our minds, raises very fundamental issues. In all the jurisdictions in which labour relations legislation is to be found, it is directed primarily at the private employer and his employees. The rules, therefore, have been written by a government to control the conduct of others but not of itself in its capacity as an employer, except where it has so decided. In the case of Bill C-170 there is in fact only one employer—Her Majesty in right of Canada as represented by the particular government holding office at any given time. Thus this bill, which also sets out to provide ground rules, is written by the employer to govern his conduct with his own employees and to establish the norms of an employer-employee relationship between them.

In effect, therefore, while Bill C-170 undertakes to provide the public service for the first time with a collective bargaining system, it is the employer who is determining beforehand how the system is to work. It is therefore, a matter of some concern to use, as we think it ought to be to you, to prevent the rules from seeming to favour the employer more than the employees. If such an imbalance is in fact written into the legislation, then the legislation itself will be more the shadow than the substance of genuine collective bargaining and of a sound employer-employee relationship.

6. It is not enough that there should be a free trade union movement as indeed there is in Canada. If the trade unions, including in this term the public service staff associations, are to operate freely and to develop sound labour-management relationships, they must enjoy a degree of flexibility which will allow for initiative and the opportunity to evolve those relationships along lines which are mutually satisfactory to the unions and to the employer. If both sides are compelled to conduct their affairs within a narrow and restricted frame of reference, the kinds of relationships which will emerge will themselves be restricted. They will produce side effects which are undesirable as well and which the restrictive rules may ostensibly have set out to avoid.

We cite as an example of this the imposition of compulsory arbitration which by definition should preclude the use of a strike. Yet any student of the labour movement must be aware that while compulsory arbitration may prevent the occurrence of what are known in Canada as legal strikes it has never prevented the outbreak of what are known as wildcat strikes.

Our first criticism of Bill No. C-170 is that it is excessively restrictive and that it unnecessarily limits the opportunities of the employer and the employees to work out their own collective bargaining relations. The fact that the employer is in this instance the government proposing this legislation indicates an unwillingness on its part to allow for the freeplay and the give-and-take which are essential ingredients of a good labour-management relationship.

We do not venture to suggest an absence of good faith on the part of government, I assure you. We perceive, however a lack of confidence by the government in the process of free collective bargaining as applied to its own employees. The government simply does not seem to believe that it, as an employer, and the staff association and trade unions, as agents of its employees, can be relied upon to work out a viable relationship without what seems to us an unnecessary amount of regulation.

8. But the government has gone even further and this brings out sharply the anomaly which may occur when the legislature and the employer are one and the same entity. An examination of bills C-170, C-181 and C-182 reveals quite clearly that the government has eliminated entire areas of conditions of employment from the realm of collective bargaining and has furthermore even restricted those areas in which collective bargaining may be exercised. The government would seem to have stacked the cards in its own favour but we prefer to think that it was merely being unduly cautious about imposing on itself what it has by law established as the code of behaviour for other employers.

9. Stated briefly, our principal criticisms of Bills C-170, C-181 and C-182 may be summarized as follows:

10. (1) the legislation, particularly Bill C-170, is unnecessarily complex and restrictive;

11. (2) the legislation places arbitrary barriers around the area of collective bargaining and thereby reduces the opportunity of the employees to participate in the determination of their own conditions of employment;

(3) the projected Public Service Staff Relations Board and its chairman are given powers beyond what is either necessary or desirable;

(4) the procedures for disputes settlement are unduly involved and interfere with the freedom of action which exists in private industry and in the public service elsewhere;

(5) Bill C-170 removes, even if only temporarily, the right of employees to seek to establish bargaining units and bargaining agents of their own choosing and otherwise interferes with the right of employee organizations to determine their own internal systems of government;

(6) the proposed legislation fails to provide adequate appeals procedures;

(7) Bill C-170 includes a gratuitous interference with the right of the employees to make political decisions;

8. Bill C-170 fails to include provisions for an already existing form of union security, namely, the check-off, and fails, furthermore, to anticipate the possibility of other forms of union security provided for in other labour-relations legislation.

We propose, Mr. Chairman, to deal with each of the foregoing in turn and in greater detail below, with specific reference to those provisions of the three bills which are to us open to question.

We submit that Bill C-170 is excessively complex and restrictive in its requirements. Little room has been left for the parties to develop their own procedures and to solve their own problems within the framework of the proposed legislation. From the point of view of the government, this is, of course, a very great convenience since it is able to carry forward in large measure the unilateral control which it has hitherto exercised over the public service. From the point of view of the employee organizations, however, many of the provisions of the bill constitute a limitation of their freedom, or are simply a nuisance. To give examples of this we point to:

(a) the restrictions on qualifications for membership of the Public Service Staff Relations Board, the Public Service Arbitration Tribunal, a Board of Conciliation or a Board of Adjudication (clauses 13(1), 61(1), 80(6) and 92(6)).

(b) the interference by the Board with the internal government of a council of employee organizations (clauses 19(1)(k) and 28(2)(b)).

(c) the requirement, for certification purposes, that the Public Service Staff Relations Board, may be satisfied that the persons representing the employer organization "have been duly authorized to act for the members of the organization..." (clause 34);

(d) the requirement that the applicant for certification must determine beforehand the choice of process for resolution of disputes referred to in section 2 (w) (clause 36 (1));

(e) the freezing of the decision made under section 36 (1) for the three years and then for at least another 180 days (clauses 37 (2) and 38 (5));

(f) the delay in entering into a collective agreement (clause 57 (4));

(g) the requirement to spell out the award desired in advance where arbitration is undertaken (clauses 63 (2) (a) and 64 (2));

(h) the requirement that the Public Service Staff Relations Board is to make regulations concerning grievance procedures (clause 99).

In some instances, the provisions referred to above are simply superfluous and could have been omitted without damage to the process of collective bargaining; the parties could have worked out procedures by themselves. In others, there are clear restrictions. In still others there are invasions of the freedom of the employee organization to be represented by representatives of their own choosing in disputes settlement procedures and in deciding for themselves how their own council of employee organizations are to be established for collective bargaining purposes.

We tend to ask ourselves why is it necessary for the government to develop such elaborate and complicated procedures for the public service when it had evidently found a far less complex statute like the Industrial Relations and Disputes Investigation Act satisfactory where the industries which come within the domain of the Parliament of Canada are concerned. The Industrial Relations and Disputes Investigation Act has remained unamended since 1948 despite the changes of government since then. Without prejudice to our own views on this act, we are bound to comment that if it was deemed capable by all those governments of handling labour-management relations in such industries as railways, air transport, shipping and others, it should have been just as capable of regulating the relations between the Government of Canada and the employee organizations in the Public Service of Canada. It is worth noting that when the province of Saskatchewan decided to provide for collective bargaining for its own public service it did so by including the simple phrase "and includes Her Majesty in right of Saskatchewan" under the definition of "employer" in section 2 (f) of the Trade Union Act. In other words, servants of the Crown in that province were treated in the same way as any other employees and the labour relations which have existed in Saskatchewan between the government of the province and the Saskatchewan Government Employees' Association are a tribute to the wisdom of that action. In the province of Quebec, where civil servants have also been given the right to engage in collective bargaining, the provisions, while more elaborate than in Saskatchewan, are nonetheless a model of precision and simplicity compared to what confronts us in Bill C-170.

The bill is excessive and anomalous in other respects as well. We draw your attention, for example, to section 8 (3) which has to do with the use of bulletin boards by employee organizations on the employer's premises. As a trade union centre representing many trade unions holding thousands of collective agreements, it seems to us extraordinary that so simple a matter, which is ordinarily a minor item in a collective bargaining, should be deemed sufficiently important to have a place in a collective bargaining statute.

Again, to illustrate our objection to this bill, we point to section 36 (1) and section 38 (4). Under section 36, an employee organization wishing to be certified must decide beforehand which process of disputes settlement it prefers but the employee organization is not obliged in any way to establish that its option reflects the wishes of the majority of its members. Apparently its word is good enough. Under section 38, however, the Board cannot grant the application to change the option unless "it is satisfied that a majority of the members in the bargaining unit support the proposed alteration . . ." Evidently the democratic process within the employee organization is presumed to exist under section 36 but not under section 38.

We turn to section 23 as another, and, in our opinion, extremely important instance of excessive zeal in anticipating circumstances which may arise. This section has to do with questions of law or jurisdiction which may arise on an issue which has been referred to an arbitration tribunal or to an adjudicator. The section has superficial merit since it seems to preclude arbitrators or adjudicators from being involved in issues which do not come within their purview. But the section is just as likely to be an open door into endless delays and procrastinations. It would be far better to let arbitrators or adjudicators cope with problems of the kind contemplated here as those problems arise. It may well be that they will adopt rough-and-ready means for resolving them, but they will have proceeded with the true purpose which is to bring in an award. But with section 23 before them, arbitrators and adjudicators will have an open invitation to shift responsibility to the Public Service Staff Relations Board and the parties to the dispute will similarly see opportunities to use this section to avoid conclusions which might otherwise be unpalatable to them.

We consider that the legislation would not lose any of its value or its effectiveness if section 23 were to be removed, and we would ask you to so recommend. Although arbitration of grievances as the final step in the grievance procedure is mandatory in Ontario under the Labour Relations Act, and the same is true elsewhere, the act does not contain a provision similar to section 23. On the contrary, the act includes a model arbitration clause under section 34 (2) which stipulates that "*where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable...*", of course, the underlined part, as we indicate is ours—it is our emphasis—in other words, the Ontario legislation considers it is quite feasible for an arbitration tribunal to determine matters which in Bill C-170 might be deemed to come within the scope of section 23. We cite Ontario because it is a highly industrialized province, with a high degree of union organization and a long experience with industrial relations.

● (4.00 p.m.)

The long history of collective bargaining in Canada has disclosed one very significant development. Over the years the issues involved in the collective bargaining process and the subjects forming the contents of collective agreements have expanded both in number and in extent. At one time collective bargaining typically concerned itself with rates of pay and hours of work and the collective agreement consisted of a few sheets of paper. It is now a lengthy document dealing with a wide variety of issues, including not only rates of pay and hours of work but such matters as pensions, life insurance, health and welfare plans, technological change and the by now more conventional matters such as seniority, grievance procedure, union security, and the like. In effect, what we are trying to say to you here is that there has never been any prescribed or circumscribed area of collective bargaining. Trade unions have consistently taken the position that any condition of employment which affects their members is a legitimate matter for collective bargaining. The historical correctness of this approach is verified by the fact that employers have been prepared to bargain over more and more issues. That they have done so reluctantly is beside the point. The Freedman Commission Report indicates that

employers will have to adjust to even greater extensions of the area of collective bargaining in the future.

I will ask my colleague, Mr. Andras, to please continue.

Mr. A. Andras (Director of Legislation, Canadian Labour Congress): In view of this, we take strong exception to the numerous provisions in the three bills before you which have circumscribed collective bargaining in the Public Service. There are large and important aspects of the Public Service which directly affect the livelihood and the job security of the government employee and which have quite deliberately been excluded from the purview of Bill No. C-170. We refer you to clauses 56 (2), 68, 73 and 86 (2) and (3). These clauses must be read in conjunction with clauses 28, 29, and 31 of Bill No. C-181, and clause 7 of Bill No. C-182. Taken together they represent a very large and important aspect of the conditions of employment which have been removed from the context of collective bargaining. The government is, in effect, seeking to retain powers of unilateral decision-making even while it is ostensibly surrendering them. The obvious state of unrest which exists in the Public Service at the present time makes it clear that the power of the government to make arbitrary decisions is resented in the Public Service and is a cause of disquiet and dispute. If unilateral decision-making is to be replaced by a system of collective bargaining under which the employees are to have a voice in determining their conditions of employment, there should be no such artificial barriers erected as have been included in the proposed legislation.

We object to clause 56 (2) because it makes it impossible for the bargaining agents to seek to effect legislative changes leading to improvement in their conditions of employment. Since the employer has the power or at least the opportunity to introduce such changes in parliament we cannot see why it should not be possible for the employer to be found in a collective agreement to propose a change, agreement on which has been established at the bargaining table. While we have great respect for the sovereignty of parliament, we see in clause 56 an opportunity for that sovereignty to be abused in the employer interest. We fail to see why a certified bargaining agent cannot lay on the bargaining table a demand for changes, for example, in the Public Service Superannuation Act. It does not follow that the employer will agree to make such changes, and the bargaining agent may withdraw this demand, but if the employer does agree to it, it should be possible under this legislation to write into the collective agreement an undertaking by the employer to follow through with appropriate legislative action. We have conceded above that the employer in Bill No. C-170 is unique, but it does not follow from this that such uniqueness should become a rationalization for the avoidance of what would otherwise be a legitimate contractual undertaking with a bargaining agent. These remarks apply also to clause 86 (2).

Clause 68, while different in character from clause 56, is nonetheless similar in its effects; it establishes a statutory limitation on the arbitration tribunal in making an award affecting conditions of employment. Obviously, every employer would like to be able to instruct the arbitration board dealing with the dispute between him and his employees as to how it should proceed. This is precisely what the government as employer is doing here. In so far as it is possible to do so, it is writing the arbitration award even before the arbitration

tribunal holds its first hearing. The restrictions which have been placed on the appointment of employee representatives to arbitration tribunals compounds a bias against employee organizations.

Clauses 70 (3) and 86 (3) respectively prohibit an arbitration tribunal and a conciliation board from making an award or a recommendation, as the case may be, dealing with or concerning "the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees..." This is to us perhaps the most extraordinary of the many features of Bill C-170. This twofold prohibition sets aside and removes from the area of collective bargaining all those matters which together form what is commonly known as job security. Trade unions have fought hard battles with employers not only for the economic improvements which are expressed through wage increases and fringe benefits, but for the protection of the employee against arbitrary decisions by the employer in connection with security of tenure as an employee. There are thus to be found within the field of collective bargaining and in the collective agreements such arrangements as seniority rules governing promotions, demotions, transfers, lay-offs and recalls and also safeguards to protect the employee against dismissal without cause or against other disciplinary measures. But under Bill C-170 and by virtue of the provisions contained in Bill C-181, the opportunity to install these protective devices has been swept away, and the government has once again given itself an entrenched right to do as it pleases with its employees in the matters set out in clauses 73 and 86 (3).

We cannot accept the proposition that this employer and the proposed Public Service Commission are either infallible or so objective as to make it necessary for these matters to be taken out of the realm of collective bargaining. On the contrary, based on our extensive experience we assert that these are the very matters where abuse is most likely to occur. There is an old legal saying that not only must justice be done, it must appear to be done. We are convinced that the inclusion of clauses 73 and 86 (3) in the legislation will provide neither justice nor its appearance in so far as the subjects contained in it are concerned. We ask that these clauses be removed from the bill and that the matter contained therein be left to be decided through the process of collective bargaining and the inclusion of suitable provisions in the collective agreement, excepting, however, appointments to the Public Service since the merit principle must clearly be preserved if a reversion to patronage is to be avoided. Consequential amendments would have to be made in Bill C-181.

We take exception to the conditions laid down regarding membership on the Public Service Staff Relations Board. Clause 13 (1) (c) provides that "A person is not eligible to hold office as a member of the Board if he is a member of or holds an office or employment under an employee organization that is a bargaining agent." We are not aware of any similar restriction on membership in the case of Labour Relations Boards. Clause 13 (1) (c) effectively limits the opportunity for the employee interest on the board to be properly represented. The intent seems to be either to compel those who might be appointed to the Board to sever all their relations with their employee organization, whether as a member or officer, or, alternatively to obtain employee representatives from outside the ranks of the employee organizations themselves. We consider this

to be a deplorable approach. There is no justification for it. It points, as we suggest elsewhere to the desire by the government to have a board which is more a high court than an administrative tribunal. It also seems to indicate somewhat less than full confidence in the integrity of members and officers of the employee organizations.

Similar restrictions exist with respect to appointments to arbitration tribunals, to boards of adjudication and boards of conciliation. They are even less justified there since they deprive the employee organization of appointees of their own choosing in these areas of dispute settlement. Here, too, the proposed legislation flies in the face of well-established practice. We ask you to recommend amendments which would remedy the situation.

● (4.10 p.m.)

40. We turn now to the powers of the board itself. In each of the labour relations laws of the 11 jurisdictions which have enacted them, there is provisions for a Labour Relations Board. Under the Industrial Relations and Disputes Investigation Act it is known as the Canada Labour Relations Board. The Public Service Staff Relations Board is to all intents and purposes an equivalent body. The purposes of a Labour Relations Board are by now well established not only in law but in practice. Basically, such a board deals with applications for certification of bargaining agents. It hears the applications, and determines whether the applicant represents the majority of the employees concerned, determines also whether the unit for which the application is made is an appropriate bargaining unit and then, if it is satisfied that the evidence so merits, certifies the applicant as the bargaining agent. Conversely, it has the power to reject applications or to modify the unit proposed by adding to it or taking from it classes of employees. The Labour Relations Board also has the power to decertify a bargaining agent where it has been established that the agent no longer represents a majority of the employees concerned. The board may also be given other responsibilities. For example, under the Industrial Relations and Disputes Investigation Act, the Minister of Labour may refer to the board for investigation complaints of failure to bargain and the board may issue orders to effect compliance with the act.

41. In Bill No. C-170, the powers of the Public Service Staff Relations Board are so extensive as to raise questions as to their need or desirability. In clause 18 of the bill the board is given powers stated as a generality. This is followed by clause 19 under which the board may make regulations. We have already expressed concern about clause 23 and this is reinforced by the inclusion in clause 19(1) of paragraph (d). We are also concerned about the implications of paragraphs (f) and (k) of the same section. We have already taken exception to clause 28(2)(b) under which the board determines the "appropriate legal and administrative arrangements" that have been made in the formation of a council of employee organizations. We do not think it is the function of a board of this kind to determine the appropriateness or the arrangements which have led to the formation of a council. This should be a matter to be determined by the employee organizations themselves. We take exception to clauses 34(d) and 35(1)(d) as indicating unwarranted and excessive authority on the part of the board not to be found in labour relations

legislation generally. Under clause 60, the members of the Public Service Arbitration Tribunal are to be appointed by the board. We believe it would be more equitable for the arbitrators representing the employee interest to be nominated by the representative employee organizations in the public service.

42. Clauses 63, 64, 65, 66, 67 and 75 place very considerable powers in the hands of the chairman of the board regarding the administration of the arbitration process. We believe that such elaborate authority is unnecessary and that the parties to a dispute could quite well be left to work out their arbitration arrangements without such intervention. Apart from any other consideration, all the requirements which are involved here and others with which we deal below must inevitably lead to complications and delays in the settlement of disputes under this particular process of disputes settlement.

43. When the preparatory committee on collective bargaining in the public service was first established, the Canadian Labour Congress expressed its objection to the fact that the committee had already been instructed to include in its terms of reference the settlement of disputes through compulsory arbitration. In our appearances before the committee we took strong exception to compulsory arbitration as we have done elsewhere on numerous occasions. When the committee's report was published (commonly known as the Heeney report) we again expressed our objection to the fact that government employees were being deprived of the right to strike which was available to workers in industry both private and public and to government employees in other jurisdictions. The fact that Bill No. C-170 now contains alternative forms of disputes settlement procedure would appear to be a vindication of our position. Bill No. C-170 in its present form envisages a system of options whereby bargaining agents may choose the right to strike or the right to arbitrate a dispute with the employer. It would appear, therefore, that arbitration as now proposed is voluntary rather than compulsory since no employee organization will be compelled to make use of it against its will. But the situation is not quite as simple as stated here so far. Once again, the government, in anticipation of its role as the employer, has arranged the rules of the game to suit itself.

44. Reduced to its most elemental terms, collective bargaining between an employer and a trade union is a contest of strength which may be mitigated by good faith, experience, maturity, mutual acceptance and a sense of responsibility. Canadian labour relations legislation by and large determines that this contest shall be carried out within certain prescribed bounds. Thus, for example, an employer may not wish to have a union but neither may he resist it through methods which are listed as unfair labour practices in the legislation. He may be required to recognize a union of his employees and bargain with it but the law does not compel him to conclude a collective agreement with it. He may lock out his employees regardless of the consequences to them of his action. The union for its part may not strike during the life of a collective agreement, one of the most serious restrictions to be found against trade union freedom of action. It is also faced with time-consuming and often frustrating conciliation procedures before it finally reaches the point where it can take strike action. But within these and other confinements, the parties are free to work out their strategies and develop a line of action which

seems to suit each one's particular interest. The employer does not have to advertise the fact that he intends to lock out his employees. The trade union does not have to (although it may) serve notice long in advance that it will resort to strike action or that it will seek some other means of settling the dispute with the employer.

45. Not so with the procedures outlined in Bill No. C-170. In this proposed legislation, the bargaining agent must declare in advance even of certification which of the disputes settlement procedures it opts for. No sooner is the bargaining agent certified, therefore, than the employer is already aware of the strategy chosen by the employee organization and is able to make plans accordingly. The legislation goes even further. Under clause 37(2) the particular option chosen remains in effect for a period of three years "immediately following the day on which the first collective agreement or arbitral award binding on the employer and the bargaining agent that specified the process comes into force.." To make matters worse, no change can be made in the option except on application to the board under section 38 and until the board has satisfied itself that a majority of the members in the bargaining unit supported the proposed alteration. The change then takes effect only after at least 180 days have elapsed since the receipt by the board of the application. In effect, therefore, the option is frozen for at least 3½ years. It must be obvious that unless collective agreements are written for periods of three years or more, the option will overflow from one agreement into another regardless of changes in circumstances and the wishes of the members of the employee organization. Clauses 36, 37 and 38 when taken together represent a flagrant interference with the democratic right of the members of an employee organization to decide for themselves how and when they will choose a particular means of settling their dispute with their employer.

46. We would be inclined to question the whole process of option in any event. Under the Industrial Relations and Disputes Investigation Act, for example, the right to strike is established but it is not mandatory. There, as in the comparable provincial legislation, there is implicit the right to use other means and the parties are free at any time to convert a board of conciliation into a board of arbitration or, for that matter, to move directly to a board of arbitration. We fail to see why Bill No. C-170 could not have followed a similar line. In view of the fact that Bill No. C-170 contains clause 89, under which a board of conciliation may by mutual agreement be converted into an arbitration board, we fail to see why the very elaborate process of options is required at all. We feel in any event that the right to make a decision as to how to seek to effect settlement of a dispute should be made when a dispute is either imminent or in effect, not three years in advance.

47. We turn now to an examination of the two methods of disputes settlement. We wish at the outset to take exception to the very fact that the proposed legislation includes provision for the establishment of a Public Service Arbitration Tribunal. We do so on a number of grounds. In the first instance, we note that a permanent tribunal is envisaged. It would be better, in our opinion, to allow for some experimentation in arbitral methods for the first few years until experience indicated whether or not an arbitration tribunal as described in Section 60 was necessary. We wish to make it clear that we are not opposed to

systems of permanent umpires or arbitration boards. These are by now a familiar and accepted feature of collective bargaining relationships in Canada. But we wish to emphasize that where they exist they have been established voluntarily by the parties themselves, not by a statute. Furthermore, the umpire or arbitration board has been selected by the parties. Under Section 60(4), the employee organization is denied the right to choose its own representative. The choice is made by the Chairman of the Board from a permanent panel which ostensibly represents the employee interest. Here again it would appear that the government has drafted legislation to predetermine its own convenience.

48. We wish to express our reservations about the Public Service Arbitration Tribunal in connection with the appointment and tenure of its members. If we understand Section 60 correctly, it would be very difficult to remove a member of the Arbitration Tribunal regardless of how unsatisfactory one side or the other would consider him to be. We are furthermore concerned about the power given to the Chairman of the Board to select the two other members who are to sit with the Chairman of the Arbitration Tribunal as provided for in Section 60(4). Where arbitration takes the form of a tripartite tribunal, the right of selection of the employer and employee representatives should be vested in the parties themselves and not in the Chairman. As your Committee is undoubtedly aware, the process in private industry is precisely the reverse; it is the two nominees who select their chairman. We are also apprehensive at what we consider to be a possibility of conflict of interest on the part of tribunal members bearing in mind the provisions of Section 60(8).

49. We are at a loss to understand the requirements set out in Sections 63(2)(a) and 64(2). We cannot see why it should be necessary for the party making the request to indicate in advance "its proposals concerning the award to be made by the Arbitration Tribunal" with respect to the issues in dispute. Surely this is an needless limitation on the parties and an unnecessary restriction on the party seeking arbitration. It may furthermore lead to unwanted legalistic argumentation as to whether or not the proposal concerning the award to be made coincided with the position taken by the party beforehand. Since arbitration is over issues in dispute during negotiations, it is surely in the public interest that the parties should be free to use the arbitral process to resolve any issues which may have become more susceptible to settlement as a result of further confrontations. This requires flexibility rather than rigidity in procedural matters. In our opinion there is no room in this proposed legislation for the type of requirement called for in Sections 63(2)(a) and 64(2).

50. We have already made reference to Section 70(3) in another context. We raise it here in connection with the latter half of the paragraph. This states that "No arbitral award shall deal with...any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before the negotiating relationship between them was terminated." We regard this too as an unnecessary restriction since there should be no bar to the parties enlarging the area of arbitration if they are both agreed that this is what they want.

51. We are also inclined to question the power given to the Chairman of the Board under Section 75. The Chairman may refer back to the Arbitration

Tribunal any matter in dispute "where it appears to him" that the matter at issue has not been resolved by the arbitral award. We have already complained about the excessive powers given to the Board and its Chairman and we believe Section 75 justifies our complaint. If the parties to an award are satisfied with it, it would seem not unreasonable to suppose that this is where the matter should end. It should not be necessary for the Chairman to review each and every award with a view to seeking out possible defects. It is worth noting that it is the Chairman alone who has the power to decide whether or not the award has resolved the issue. Apparently neither one party nor the other to the dispute may seek to have a review of an award if it is dissatisfied with its effectiveness.

52. With regard to the process of conciliation, we are immediately struck by the requirements under Section 79 dealing with designated employees. We are at a loss to understand why it should be necessary to make a determination of this kind at the very time that collective bargaining begins. Such a procedure is hardly conducive to collective bargaining in good faith. It is, on the contrary, an invitation for the bargaining agent to begin to establish strike machinery, since the first order of business confronting the parties is a determination of who are the designated employees. No only is there bound to be delay in the collective bargaining process, there is likely to be a further delay if the Board must ultimately make the decision because of disagreement between the parties. We are naturally concerned about how broad an interpretation is likely to be given to the term "designated employees", since too broad a definition may make a mockery of the whole process of conciliation and of the right to strike.

53. We question the need for the inclusion of Section 83 in the Bill. On the basis of our experience we consider it quite unnecessary for the Chairman to provide the conciliation board with a statement of the matters at issue. We also consider it unnecessary for the Chairman to have the power to amend such a statement at any time. Anyone conversant with the procedures of Boards of Conciliation in the various jurisdictions knows that a Board of Conciliation works best when it is free to deal with the parties directly and to learn from them what are the matters in dispute and how to assist them in reconciling their differences. If a board is to be subjected to instructions from the Chairman from time to time so that its terms of reference are constantly changing, it can hardly be expected to carry out its functions properly. To our minds, Section 83 represents an excess of zeal on the part of the government and failure on its part to assume that the people who are to live under this legislation will possess sufficient common sense to work some problems out for themselves. We consider Section 86(4) to be similarly objectionable.

● (4.30 p.m.)

54. Bill C-170, in addition to providing for arbitration and conciliation, also anticipates the need for a grievance procedure and the adjudication of grievances which cannot otherwise be resolved. We refer first to Section 2(p) and (t) and thereafter to Section 90 to 99 inclusive. We are immediately concerned when we read in Section 2(p) and (t) that the term grievance is confined to "an employee" or "the employee". Apparently no consideration has been given to the possibility that a grievance might be filed by the bargaining agent itself. This is brought out again in Section 90(1) which specifies "where any employee

feels himself to be aggrieved" but does not provide for a situation where the bargaining agent may consider that the contract has been breached in a way which affects it as an entity whether or not it affects any specific employee. Similarly the various provisions do not provide for a group grievance, that is, a grievance simultaneously affecting more than one employee. These are deficiencies in the legislation which we feel should be corrected and we ask that your Committee make the necessary recommendations to do this.

55. The terminal point of the grievance procedure is what is identified in the proposed legislation as adjudication but which is more commonly known as arbitration. In order to avoid confusion we will use the term specified in the Bill. Our first objection is to the reference to "an employee" in Section 91(1) along the same lines as brought out with reference to Section 2(p) and (t) and Section 90. There is, however, an even more serious criticism to be made and we ask you to compare the language of Section 90(1)(a)(i) and Section 91(1). In the former Section, the opportunity for filing a grievance is fairly broad; in the latter the opportunity for seeking adjudication is more limited. It would appear to us, therefore, that while an employee may grieve by virtue of the interpretation or application in respect of him of a provision of a statute or of a regulation, for example, he cannot carry such a grievance to adjudication unless it flows from disciplinary action resulting in discharge, suspension or a financial penalty. Barring these exceptions, the employee may find that he reaches a dead end in the grievance procedure since third party intervention is closed to him in respect of Section 90(1)(a)(i). This is quite clearly brought out in Section 95(3). What it says in effect is that there are certain types of grievances where the final decision is to be made by the employer and by the employer alone.

56. We are concerned about the implications of Section 97(2). We are not accustomed to the notion of an individual paying the costs of arbitration (adjudication). Ordinarily and quite properly it is the employee's organization which undertakes to bear its share of the cost of the process. If an individual employee is to be burdened with the cost of adjudication, this may become a serious deterrent against the use of the grievance machinery.

57. We consider Section 99 superfluous. It should not be necessary to make regulations dealing with all these matters. They could quite properly be left to the parties to work out by themselves as is the case in collective bargaining in Crown Corporations and in private industry.

58. A matter which has caused considerable concern to the various staff associations and trade unions is the procedure outlined in Section 26 of Bill C-170. As we understand it, in the first instance the bargaining units are to be determined unilaterally by the employer over a two-year period. Such units will then remain in effect for 28 months and it is only then that the employee organizations may seek a restructuring of the units to suit their own understanding of the needs of their members. This is a most unusual procedure and it reflects, as so much else in the proposed legislation, the determination of the government to assure its own convenience and to establish procedures which will fit into its previously established decision as to how the public service should be operated. We take strong exception to the whole notion of such prior unilateral decisions being made and thus depreciating the whole collective

bargaining purpose. For some groups of employees it may take more than four years before they can hope to see established bargaining agents which they want to have. In the meantime, they must wait their turn. They must accept bargaining units established on their behalf by the government in its sole wisdom. They must accommodate themselves to institutional changes in the making of which they have no part.

59. We do not propose to make a case here for the particular forms of organization which have grown up among government employees in the public service. There are historical reasons for this and there would be no point in trying to rewrite the past. But the fact remains that Section 26 in its present form and as its operation has been explained to us is likely to produce a multiplicity of bargaining units; a figure of 66 has been quoted extensively. It is not so much the number which frightens us as the prospects of what Section 26 is likely to do to the existing organizations. Some may lose any hope of maintaining their identity. Some may be forced into councils of employee organizations whether or not they wish to take such action. In a good many cases where so-called departmental organizations are concerned, members who have hitherto thought to protect their interests through a single association of this kind may find that they have been divided up among a considerable number of bargaining units into conglomerations of minority groups. From a collective bargaining point of view, this is neither a very satisfactory and efficient procedure for the employer but it leaves much to be desired for the employees.

60. When we appeared before the Preparatory Committee on Collective Bargaining in the Public Service, we suggested that there be an initial shakedown period during which the various existing employee organizations should continue to be recognized. At the end of that period we thought that there might be a sufficient reorganization and readjustment of the employee organizations to establish what would presumably be a more rational structure suitable for collective bargaining. We still believe that our proposal has merit and ask that you give it consideration. We recognize quite well that there would be some problems to be faced in terms of recognition and collective bargaining. But we venture to say that the procedure which is contained in Section 26 will create its own problems and they are likely to be as involved and as far-reaching as those which might occur under any alternative provision. The fact remains that Section 26 turns on its head the certification procedure to be found in the Industrial Relations and Disputes Investigation Act and in the comparable Acts of the provinces. The employee organizations have been deprived of the right of initiative in applying for certification of units as conceived by them even though the appropriateness of such units remains open to determination by the Labour Relations Boards. The prefabrication of units by the government is thus a restriction on freedom of association greater than is to be found in the legislation applying to employees in private industry or in Crown Corporations. The fact also that years will elapse before the initiative will lie with the employees makes it almost a certainty that the government is to have its way as to how employees are to be organized for collective bargaining purposes. We are not implying that the employee organizations which will emerge finally will be employer dominated, but they will undoubtedly show evidence of employer interference in their formation and structure.

61. A conspicuous omission from Bill C-170 is a feature to be found in comparable legislation elsewhere, namely, recognition of a distinguishable craft or skill for certification purposes. Such a provision is to be found in the Industrial Relations and Disputes Investigation Act, under Section 8. We cite it herewith:

62. "Sec. 8. Where a group of employees of an employer belong to a craft or group exercising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to such craft or other skills, the trade union may apply to the Board subject to the provisions of Section 7, and is entitled to be certified as the bargaining agent of the employees in the group if the group is otherwise appropriate as a unit for collective bargaining."

63. In circumscribing the area of collective bargaining as is proposed in the bills before you, the government as employer is not only seeking to deprive its employees of a voice in determining a considerable part of their conditions of employment but is also confronting them with the fact so far as those conditions are concerned they cannot hope to have disinterested disposition of their legitimate grievances. We have already drawn your attention to the fact that Sections 90 and 91 in their present form do not provide a grievance procedure up to and including adjudication for certain types of grievances. The disposition of certain types of grievances remains ultimately in the hands of the employer. At the risk of repetition, we wish to say that we consider this to be an unwarranted denial of justice.

64. An examination of Bill No. C-181 adds substance to our objections. Part III of that bill deals with a number of aspects of employment, including tenure, probation, lay-offs, leave of absence and incompetence and incapacity. Each of these is ordinarily a matter which is bargained about in private industry and is covered by various provisions of a collective agreement. Some have been so long a matter of bilateral agreement that they are no longer matters of dispute. Not so here. The subjects which we have just listed are to come within the domain of the deputy head. What are the rights of appeal? They are few, if any. We find no reference to appeal in Section 22 to 30 inclusive. The right of appeal is contained in Section 31 dealing with incompetence and incapacity but the appeal is from the deputy head to the commission and goes no further. In other words, the aggrieved employee is confronted by an establishment which to him appears monolithic and from which he has no recourse. We think this is wrong. We most certainly believe that all those matters which have to do with employment should be subject in the first instance to bilateral agreement and beyond that to grievance procedure which will, if necessary, terminate in what is here called adjudication but what is elsewhere known as arbitration. It is worth noting also that Bill No. C-181 provides for appeals under Section 21 in connection with appointments. The appointment is made by the commission. The appeal is made to the commission. The appeal is heard by the commission. The finding is made by the commission. The commission obviously can do no wrong.

65. We have the same reservations about the new Section 7 of Bill No. C-182. If we understand it correctly, the Treasury Board has been given very

great powers in relation to personnel management in the public service. We refer you to paragraphs (a) to (i) in sub-section (1) of Section 7. It is not clear to us that all these powers vested in the Treasury Board are in any way affected by the proposed collective bargaining legislation. We draw your attention particularly to paragraph (d) which empowers the Board to determine and regulate rates of pay, hours or work and other matters; to paragraph (f) regarding standards of discipline, including financial and other penalties, suspensions and discharge; to paragraph (g) dealing with standards regarding physical working conditions and health and safety of employees. There is a question whether this seeming unilateral authority vested in Treasury Board will leave much room for collective bargaining or any scope for an effective grievance procedure. This ambiguity can be removed and the legislation clarified by a change in Bill No. C-182 which would indicate that the powers vested in Treasury Board are subject to the collective bargaining process contained in Bill No. C-170.

66. We wish to express our strong objections to the new Section 7(7) and (8) of Bill No. C-182. Under these provisions, any employee in the public service may be dismissed at any time "in the interests of the safety and security of Canada or any state allied or associated with Canada" The public of Canada had been given assurances that this arbitrary power would be circumscribed and the employee affected would be given an opportunity to seek redress, but apparently these assurances will not materialize. We find these two paragraphs repugnant to our concept of Canadian justice. While the Government of Canada has every right, indeed the obligation, to protect the security of Canada as a state, it surely should not have the right to do so without allowing the accused to have his day in court. We are not proposing here that security cases should necessarily be held in open court but we do believe that anyone who is accused should have the right to challenge his accusers. We ask for modifications in Section 7 to this effect.

67. We wish to express our opposition to Section 39(2) of Bill No. C-170 and Section 32 of Bill No. C-181 which is similar in nature. In effect these provisions deny certification to an employee organization which is involved in receiving or handling either directly or indirectly contributions to a political party and make liable to dismissal an employee who is involved in political activity whether by participation or financially. As it happens, the Canadian Labour Congress has since 1958, as a matter of policy, encouraged its own affiliated staff associations to maintain their tradition of political non-partisanship. The Congress felt that such a position was appropriate for them to take. It did not at any time, however, prohibit them from deviating from this policy and indeed they are as autonomous in this regard as they are in others within the constitutional framework of the Canadian Labour Congress. But we distinguish between the policy position taken voluntarily and the prohibition embedded in the legislation.

68. We think the time has arrived when this trepidation concerning political involvement by civil servants should be re-examined. But in any event we do not see why any employee organization should be denied certification merely because it acts as a channel for political contributions on behalf of employees. It is worth noting that the Parliament of the United Kingdom suffers from no

apprehensions in this regard. Regardless of which party has held office, British civil servants have since 1945 been allowed to be identified with a political party through affiliation and hence they have been permitted to make contributions to a political party. There are at the present time two civil service associations in Great Britain affiliated to the Labour Party, the Post Office Engineering Union and the Union of Post Office Workers, with a combined membership of close to 192,000. There are in addition a number of trade unions with members both within the public service and elsewhere which are affiliated to the Labour Party as well. We consider it appropriate that Section 39(2) should be deleted from Bill No. C-170 and ask you to recommend accordingly. We ask also that you recommend changes in Section 32 of Bill No. C-181 to make the blanket prohibition more limited in scope.

69. At the present time, all those staff associations which are members of the national joint council of the public service of Canada enjoy a check-off privilege for the payment of union dues by their members. This has been the situation for some time. While, in our opinion, the check-off privilege has been unduly restricted to organizations in the national joint council, the fact remains that it was there. We would have expected Bill No. C-170 to include a provision making the check-off available to any employee organization which becomes certified, if it so desires. To have omitted it places a burden on the bargaining agents to have to bargain for something which is by now so well established that it is no longer a matter of controversy. We ask that you recommend a change accordingly. In addition to the check-off, labour relations legislation in this country recognizes the fact that there are other forms of what is known as union security. Such legislation makes permissive the inclusion in collective agreements of such provisions as the closed shop, the union shop and the like. We consider that Bill No. C-170 should have a section not only on the check-off but on this as well. We go further and ask that the reference to the check-off go beyond the voluntary revocable type of check-off which now prevails and make possible the kind of check-off arrangement which is commonly known as the Rand formula.

70. There are a number of other matters which we wish to draw to your attention and which are not contained in the foregoing. We deal with them briefly here now, not because we consider them unimportant, but we do not consider it necessary to make elaborate arguments in their connection.

71. Sections 8 (1) and (2) and 9 (1) of Bill No. C-170 contain a number of prohibitions which are commonly known as unfair labour practices. The reference is to "person" which in this context would be a public servant acting in a managerial capacity and therefore representing the employer. It is obviously impossible to impose a fine on the employer but it should be possible to provide for penalties where such a "person" engages in activities which are clearly contrary to the legislation. What we are suggesting is that no managerial employee in the public service should be able with impunity to engage in any of the activities described in these Sections.

72. Section 9 (2) runs counter to our concept of the exclusive bargaining agent. The right of minority employee organizations to make representations may lead to unnecessary disputes.

73. We believe consideration should be given to treating the Post Office Department and the Printing Bureau as separate employers under Schedule A, Part II, of Bill No. C-170. We have in mind the postal operation group in the former and the printing trades in the latter. In both instances, the work performed and the services rendered are sufficiently distinct from other government functions to merit such consideration.

74. There are other matters of detail in Bill No. C-170 to which we would take exception. These are, like others we have already identified, restrictive in nature or open to grounds.

(Translation)

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, gentlemen.

(Translation)

Hon. Mr. DESCHATELETS: Excuse me, Mr. Chairman, did I understand that we cannot ask questions on the brief today?

Mr. JODOIN: No, not today, Senator. This is what we have been asked to do. I can assure you we will be at your disposition at the next meeting.

FRIDAY, October 7, 1966.

The JOINT-CHAIRMAN (*Mr. Richard*): Order, please. This morning we will hear first from the Canadian Union of Postal Workers. I understand the National President, Mr. Kay, is here with us and I would ask him to come forward.

Mr. W. Kay (President, Union of Postal Workers): Mr. Chairman, this is the Canadian Union of Postal Workers submission on Bill No. C-170, an act respecting employer and employee relations in the public service of Canada to the Joint Committee of the Public Service of Canada.

We commend the government for its decision to introduce collective bargaining in the public service even if this action is, in our opinion, belated. We welcome the fact that civil servants in the federal domain will at last enjoy the same rights which have for so many years been afforded to wage and salary earners in private industry, in crown corporations, to civil servants in certain of the provinces and in municipal government. We look forward to a change, and an improvement in the relationships which have existed between the government as the employer and government employees as represented through their various trade unions and staff associations. In particular, the Canadian Union of Postal Workers regards the advent of collective bargaining legislation with keen anticipation in view of the difficulties which postal workers have encountered as employees of the Post Office Department.

In our opinion, a case can be made, and is made here, that federal government employees should be brought within the purview of the Industrial Relations and Disputes Investigation Act. We express this viewpoint for a number of reasons. One of them is the fact that the I.R.D.I. Act is a statute covering employees within the federal jurisdiction for collective bargaining purposes. It covers a variety of industries, including crown corporations. It has worked reasonably well during the eighteen years in which it has been in effect,

although it is in some respects out of date and in need of amendment. It would therefore have been appropriate to have included federal government employees within the act as simply another group of employees working within the federal jurisdiction. The machinery of the act is such that it could, without major dislocation, assume the additional burden of supervising the labour-management relationships within the government of Canada and the associations and unions of its employees. There would undoubtedly have been some difficulties during the transitional period in view of the sudden influx of a very considerable number of employees covered by a number of organizations but this would have adjusted itself in due course.

An examination of Bill No. C-170 indicates that there are a number of similarities between it and the I.R.D.I.A. Both include a Labour Relations Board or its equivalent. Both provide for certification procedures. Both establish exclusive bargaining agents. Both provide for the arbitration of grievances during the currency of a collective agreement. Both provide for conciliation and both make possible recourse to arbitration. Under those circumstances we question the wisdom of Bill No. C-170 and consider that the I.R.D.I. act should have been suitably amended to take in Her Majesty in Right of Canada for those employees not already covered under the I.R.D.I. act. A further reason for proposing this is that the I.R.D.I. act is, in a number of respects, a more flexible instrument than Bill No. C-170. It provides greater latitude in bargaining and, consequently, more freedom of action to the parties both in negotiations and in the terms to be included in a collective agreement.

It may well be that our views here are not shared by government employees who are not members of our union or who are not employees in the Post Office Department. Be that as it may, we would argue that what we have proposed in the foregoing is applicable at least to employees in the Post Office Department. This department is unique in a number of ways. Those employees who handle mail or engage in other directly associated functions occupy classifications which are not to be found elsewhere in the government service. Postal employees, therefore, form a unique group. The Post Office Department, furthermore, conducts a quasi-commercial function which makes it more closely akin to a crown corporation than is likely to be the case for any other department of government. It would therefore not be inappropriate for the Post Office Department at least to be placed within the scope of the I.R.D.I. act even if similar action is not taken with respect to the employees of other government departments.

This is a matter of such grave importance to postal workers that if no other procedure is made available to us, allowing us to bargain under the I.R.D.I. act, then we would urge that the Post Office Department be legislated into a crown corporation. We are certain it is no secret to the Hon. members of this Committee that a majority of the members of the Canadian Union of Postal Workers are prepared on very short notice to withhold their labour power in order to achieve one or the other of these two objectives: either that the I.R.D.I. act be opened to permit postal workers to bargain under its procedures by direct amendment of that statute, or, the conversion of the Post Office Department to a crown corporation. We would not pretend to influence this Committee by threat, and we want it clearly understood that no threat is being

made; we are merely informing the Committee of the deep and abiding sincerity in which postal workers approach the issue of full and free collective bargaining.

It would seem to us completely unnecessary to itemize in great detail why we consider the provisions of the I.R.D.I. act appropriate and viable as an instrument for collective bargaining in the public service. The legislation speaks for itself and we are confident the hon. members of this Committee are thoroughly familiar with its provisions.

With all due respect to the sincerity of the preparatory committee on collective bargaining, who after all could not deviate from their terms of reference as laid down by the Prime Minister and his Cabinet, we look upon the activities and results of the Committee for the most part unnecessary, although we recognize that their extensive research produced a useful compendium of the pros and cons of a great variety of collective bargaining systems. The Committee need only have concerned itself with a thorough examination of the tried and tested statute known as the Industrial Relations and Disputes Investigation Act, having as their objective the amendment of those clauses which would open it for collective bargaining for federal public employees. In addition to the fact that the prolonged activities of the preparatory committee were obviously quite costly, delaying collective bargaining for public employees for at least two years, we find that the draft Bill No. C-170 which was born out of these activities has produced a procedure which, because of its complicated mechanisms, would inevitably result in hamstringing full and free collective bargaining. In their zeal to provide for any and every contingency, they produced a bill, the provisions of which would try the best legal minds in the country. Simply stated, the I.R.D.I. act should be amended to accommodate all federal public employees for the purposes of collective bargaining.

● (9.50 a.m.)

In addition to the above objections we have to Bill C-170 we raise the following: While Bill C-170 apparently contains provisions for conciliation and strike action, it also contains provisions for compulsory arbitration. We are unalterably opposed to compulsory arbitration in any form and we would resent bargaining under a statute which would allow large groups of organized public employees to shirk their responsibilities under full collective bargaining. The provisions in a statute purporting to provide collective bargaining for public servants which allows both types of disputes settlements (compulsory arbitration on the one hand, and conciliation leading to possible strike action on the other hand) leaves the statute wide open to abuse by the employer. Since it appears quite obvious that the majority of organized civil servants will opt for compulsory arbitration, postal workers would become a minority group under the bill, subject to the many pressures which a minority group could expect in these circumstances. Since the government as employer also favours compulsory arbitration, we are convinced that the best way to settle the serious impasse which this creates, would be to allow postal workers to bargain under the I.R.D.I. Act.

Turning now to specific sections of Bill C-170 which strike us as inordinately giving the employer the advantage to such a degree as to completely

upset the balance between the two sides at the bargaining table, we refer you to the following sections of the bill:

Section 7:

This section extends to management a prerogative to which management does not have an inalienable right. The exclusive right or authority of the employer to determine the organization of the Public Service, to group and classify positions therein and to assign duties to employees, while we admit should be initiated by management, should nevertheless be bargainable, and this section should so specify.

Section 9:

Subsection (1) of section 9, in seeking to legislate against the possibility of discrimination by a person employed in a managerial capacity, nevertheless appears to take it for granted that discrimination is permissible if this Act is opened to it or if any regulation, collective agreement or arbitral award is open to discrimination. We maintain discrimination should not be possible in *any* circumstances and we look upon this subsection therefore as being badly constructed.

Subsection (2) of this same section 9 compounds the ambiguity and incongruity of subsection (1) in that it allows a person in a managerial capacity, whether or not he acts on behalf of the employer, to bypass the bargaining agent in order to receive representations from or hold discussions with representatives of *any* employee organization. We believe this clause should state in unequivocal language a clear and unmistakable principle against the possibility of any person employed in a managerial capacity from taking any action whatever against an organization which can be construed as discriminatory.

The provisions of Part I of Bill C-170, sections 1 to 25 inclusive, describing the constitution, qualifications for membership, remuneration and powers and duties of the Public Service Staff Relations Board contain the most compelling reasons why we would prefer to bargain under the I.R.D.I. Act. The Canadian Union of Postal Workers is unable to make a distinction between the Governor in Council and the employer. It therefore seems incongruous that the PSSRB under this bill would not only be selected and appointed by the employer but would also be beholden for tenure, remuneration, re-appointment and in fact all of the terms and conditions of such appointments would be the employer's prerogatives. We would feel extremely uncomfortable in the knowledge that those members of the Board who would be representative of the interest of the employees would be appointed by the employer. And even if the regulations governing such appointments contained a liberalization of Part I of Bill C-170 to a degree permitting participation by staff organizations in the selection of Board members, the C.U.P.W. as a minority group opting for conciliation and the right to strike, could not hope to expect to have a discernible voice in the selection of such appointees.

Selecting one or two sections of Part I at random, we find under section 19 that the regulation-making powers of the Board are exorbitant beyond reason. Subsection (b) of this section which gives the Board power for making regulations to determine units of employees appropriate for collective bargaining is a prime example. Under this section the objectionable proposal that

occupational categories be the basis for establishing bargaining units, that is, 6 occupational categories instead of 66 occupational groups, could be imposed. The C.U.P.W. takes the strongest exceptions to the possibility of a statute providing collective bargaining for public servants being wide open for such marriages of convenience which would literally legislate public service employee organizations of long standing out of existence and catapult them into the arms of a group with which they have very little affinity and whose philosophy is employer-orientated.

Another example is paragraph (k) of section 19 which would permit the Board to make regulations on the terms and conditions relating to the certification of a group of employee organizations, and worst of all, would have power to make regulations literally describing the relationship of such employee organizations to each other, to the employees therein and the employer. The more we study the powers and duties of the Public Service Staff Relations Board, the more we come to the conclusion that the employer intends to control every minute activity of staff organizations and unions with whom they purport to bargain collectively. This throws into a cocked hat any claim that the two sides at the bargaining table could enjoy equal status. And then, as though to close any possibility of leaving any initiative whatever to staff organizations, paragraph (1) of section 19 places under control of the Board the power to make regulations on "such other matters and things, etc." And finally, section 25 allows the Board to have as many second, third and fourth thoughts as it pleases because under this section it may review, rescind, amend, alter or vary any decision or order made by it. The remainder of this section is so promiscuous, vague and confusing that it is inconceivable how this section could possibly contribute anything to the process of full and free collective bargaining, except to make it even more unworkable.

We particularly deplore the provisions of section 26 which empowers the Governor-in-Council to specify occupational categories and to fix the date of eligibility for collective bargaining. The C.U.P.W. does not see the need for these transitional provisions, being fully prepared on very short notice, to bargain under the provisions of the I.R.D.I. Act—an Act which is tried and tested since 1948 and which is supported by voluminous precedent to meet almost any situation, and this of course brings us back once again to the question we have asked ever since the Preparatory Committee came into being: why ignore a perfectly good piece of legislation for a brand new untried instrument spelled out under Bill C-170. It is like throwing away a perfectly good outboard motor and substituting paddles.

Paragraph (b) of subsection 2 of section 28 clearly empowers the Board to meddle unduly in the affairs of the employee organizations allowing it to decide what could be an appropriate legal and administrative arrangement between, of all things, employee organizations. We doubt if any hon. member of this committee would deny that the foundations for certification must be based on the wishes of the employees. In addition, the employee organizations concerned could not help resenting the intrusion of the Board into passing judgment on the adequacy of the administration of their organization in the matter of representation.

The proposed bill contains very few clauses which do not lend themselves to employer control; however, some clauses are more extreme than others and we offer as an example section 31. Under this section we can visualize the C.U.P.W. applying for certification as bargaining agent, and being met with refusal by the Board. At this point the Board would be unable to certify the C.U.P.W. as bargaining agent for the same or substantially the same proposed bargaining unit before at least six months had elapsed since the date of refusal (unless the previous application was refused because of technical error or omission). It seems to us that an organization such as ours which has been accustomed to settle its own affairs satisfactorily over the years would lose patience at this point and would seek to establish itself as the bargaining agent by the simple expedient of withholding its labour power.

The procedures under section 32 providing for the determination of appropriate bargaining units is clearly Procrustean in that the Board must take into account the duties and classification of the employees in the proposed bargaining unit as these relate to the prescribed plan of classification which is presently being whittled into shape by the Bureau of Classification Revision. Thus, once again, we find the provision in this bill which allows the employer and his representatives to remould the composition of employee organizations to suit their own particular ideas of what they consider to be prerequisites for entering a collective bargaining regime in the Public Service. Glancing for a moment at the private sector we find that this preoccupation with prerequisites played no part whatever in the struggle for recognition during the early days of the trade union movement.

● (10.00 a.m.)

Carrying this argument a step further, we find clause 33 which purports to provide powers to the Board for the determination of membership in bargaining units, wide open for the possibility of being absorbed by a large and more powerful group whose philosophy goes contrary to the aspirations and goals of the aforementioned minority group.

Under paragraph (d) sub-clause (1) of clause 35, while conceding that the Board should have the power to ascertain the wishes of the employees as to a bargaining agent by way of a supervised vote, we consider it most unusual and in fact unacceptable that the Board should have the power to pass judgment on the "representative character" of the officers of a staff organization, nor should the Board have any powers in prescribing the process by which such officers should be elected.

Mr. KAY: At this point, Mr. Chairman, I would like to have Mr. Otto read the remainder of the brief, and if the committee agrees he will also read our brief presentation on Bill C-181.

Mr. Otto (Executive Vice-President, Canadian Union of Postal Workers): Mr. Chairman, the policy of the C.U.P.W. is for a single dispute settlement procedure, namely conciliation and the right to strike. The dilemma of a Statute which provides a choice between compulsory arbitration and conciliation leading to the possibility of strike action is graphically illustrated in the provisions of Section 36 which lays down the incongruous provision that before an employee organization can be certified by the Board as bargaining agent for

any bargaining unit, the said employee organization must specify which of the two dispute settlement procedures it wishes to operate under in the collective bargaining regime described in this Bill. Here we reiterate again that those employee organizations who claim to be bargaining agent for any bargaining unit must accept full responsibility for the agreements reached at the bargaining table. The possibility of settling an impasse by being allowed to resort to a third party settlement under compulsory arbitration procedures would in a very short time make a shambles of the entire relationship by allowing one side or both sides to shirk their responsibilities. In this regard we note according to newspaper accounts that the merging staff associations who support compulsory arbitration and who abhor industrial action for disputes settlement have received a solid vote of confidence from the Prime Minister, the Revenue Minister and the Works Minister! For the sake of avoiding the suspicion of "company unionism" we sincerely hope that these honourable gentlemen will overlook us when they feel the urge to shower praise and blessings on public service organizations. As a matter of fact, the entire bill aids and abets "company unionism" by its inordinate emphasis on compulsory arbitration as a means of settling an impasse in a dispute. Therefore, for Bill C-170 to even come close to measuring up to the provisions of the I.R.D.I. Act Sections 63 to 76 would have to be eliminated and Sections 77 to 89 could be described as meeting the goals of the C.U.P.W. on the question of disputes settlement. This of course is in addition to the criticism we have made earlier with regard to the restrictive and employer-oriented clauses providing for the transitional period.

Continuing our criticism of the Bill: under paragraph (b) of sub-clause 1 of clause 56, we cannot visualize the P.S.S.R.B. in the role of adjudicator because in such circumstances the Board could be placed in a position of partiality for one side or the other, destroying the alleged neutrality of the Board. Where no period is specified for implementation of a collective agreement, this question should be resolved by submitting it to binding arbitration because such a function is not in keeping with the functions of the Board. Further under sub-clause (2) of the same clause 56, the C.U.P.W. would be unable to negotiate a large number of improvements it is contemplating in the Public Service Superannuation Act. Likewise, we see no reason why it should not be possible to negotiate improvements in the Government Employees Compensation Act under legislation which purports to provide collective bargaining for public servants and thus we reiterate our belief that all terms and conditions of employment of public servants should be negotiable.

We consider the time limits of sub-clause (3) of clause 57 which requires that first collective agreements, if entered into within 30 months after eligibility for collective bargaining, as unreasonable, in that it specifies that the agreement shall expire no sooner and no later than the end of that 30-month period. In our opinion, long before the 30-month period ended, the employees represented by the C.U.P.W. would surely become disenchanted with the long awaited Statute providing collective bargaining for public servants. Here again, we reiterate that the organization we represent is prepared to bargain collectively immediately upon certification, another reason why we prefer the I.R.D.I. Act. The Minister of National Revenue in his opening statement refers to "the desire of all concerned to retain the existing pay review cycle in the first rounds of

bargaining." We respectfully submit that the C.U.P.W. has no desire whatever to retain any part of the cyclical salary review system from this date on.

Clause 57, sub-clause (4) provides that no collective agreement may be signed within six months of eligibility for collective bargaining. Again, we have unreasonable time limits. In actual practice, due to the process of certification, naming of designated employees, definition of bargaining units, selection of the process of resolution of disputes, examining the representative character of the representatives of the employee organization, the conciliation procedures, the inexperience of employer negotiators, the inexperience of some employee organization negotiators and the backlog of problems resulting from the absence of collective bargaining over the years,—it would be a miracle if a collective agreement could be concluded in six months. All of these unnecessary and aggravating delays need not plague us at all if the I.R.D.I. Act is opened to public employees.

Mr. OTTO: I would like to point out to the Committee that the next sentence is a typographical error, and I will begin reading the first paragraph, page 10.

Having stated previously that it is essential to eliminate clauses 63 to 76 in order to make this Bill an acceptable substitute for the I.R.D.I. Act, it naturally follows that we want no truck with clauses 60 to 62 inclusive, which define the terms of reference of the Public Service Arbitration Tribunal. We note that even those organizations who openly elect for compulsory arbitration nevertheless find some of the terms of reference of the Tribunal obnoxiously undemocratic, and we point to clause 71 dealing with the Chairman's exclusive right to sign arbitral awards, without the right of other members of the Board to submit minority opinions.

We have indicated earlier in this statement that we could live with clauses 77 to 89 because of the similarity of the provisions thereunder with the Industrial Relations and Disputes Investigation Act: we make one important exception, and that is with reference to Sub-clause (3) of clause 86: We do not consider the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees as the exclusive domain of management. Since the remaining provisions do not deviate too greatly from the I.R.D.I. Act, we ask again, why introduce a new instrument when a satisfactory one was already in existence?

The criticism we have offered of various provisions of Bill C-170 does not mean we would be satisfied with those clauses we did not mention. We have simply pointed to the worst features of the Bill. The experience under the I.R.D.I. Act is on record and therefore verifiable; we know we could live with our employer under that Act. The claim that Bill C-170 closely parallels the I.R.D.I. Act is in our view spurious. If this were so, then surely the Preparatory Committee would have sought to open that Act to federal public employees. The truth of the matter is that the I.R.D.I. Act does not contain enough employer control devices to satisfy the Preparatory Committee and thus they devised a separate statute in order to make certain that federal public employees would not fall under the influence of the legitimate trade union movement of the country.

All political parties in Canada are on record as supporting a system of 'collective bargaining'. We need hardly point out to the Hon. gentlemen of this Committee that they are not necessarily talking about the same thing. The passage of this bill would have the effect of protecting the Government of the day from criticism regarding adequate machinery for salary determination. Quite obviously, the same applies to staff associations in that the vast majority appear to regard compulsory arbitration as a satisfactory dispute settlement procedure, whereas postal workers have their eye on the procedures governing the private sector. This is their goal and they are not likely to settle for less.

Working conditions and other conditions of employment would have little chance of improvement because of deliberately obstructive provisions of this bill. This is not too important for the average federal public employee; however, for employees of the Post Office Department, conditions of employment and methods of discipline are often as important as any shortcomings in remuneration. As the bill presently stands, most of these conditions of employment and methods of discipline will be outside the scope of bargaining and arbitration, leading eventually to another Royal Commission of Inquiry into working conditions in the Post Office Department.

Thus we complete our presentation with a plea that postal workers be allowed to bargain collectively under the I.R.D.I. Act either through the simple expedient of opening the act to them or by making the Act available to them through the medium of converting the Post Office Department to a Crown Corporation.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Otto, will you please read the next brief.

Mr. OTTO: This is the submission of the Canadian Union of Postal Workers on Bill No. C-181 to the Joint Committee of the Public Service of Canada.

The following is our submission on the provisions of Bill No. C-181, the act respecting employment in the Public Service of Canada. We do not believe that the principle of appointments based on merit can be preserved under clause 10 because of the power of the commission to delegate authority to deputy heads in all areas except appeals. We say this because the role of "guardian of the merit principle" is completely unsuitable for deputy ministers because of their close involvement in the political decisions of their ministers. This type of working partnership between the commission and the departments will inevitably result in the establishment of a multiplicity of definitions of the merit principle.

We take exception to clause II which allows the commission to make appointments from outside the public service whenever they deem it in the best interests of the public service to do so. We believe the "best interests" of the public service need to be clearly defined in this section.

We do not agree that the commission and Treasury Board should have exclusive jurisdiction over appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees. In our view all of these should be negotiable under collective bargaining.

We especially deplore clause 31 entitled "Incompetence and Incapacity" because of the ease with which an employee can now be released. Where

formerly the final decision to release for cause rested with Governor in Council, we have a procedure in this bill which could degenerate into a perfunctory role in the commission, leaving the deputy minister in a position of setting his own standards for dismissal and thus we could end up with as many varieties of dismissal procedures as we have deputy ministers. Although there is a right of appeal and the commission apparently has the final say, we cannot conceive of very many instances where a recommendation by a deputy minister to dismiss an employee would not be accepted by the commission.

We find no evidence in this bill that an appellant has a right to be represented by a competent person from his staff organization. This was spelled out in the regulations under the Civil Service Act but under clause 21 of this bill no such provisions are made, and the impression is left that only the person appealing and the deputy head concerned will be given an opportunity of being heard.

We have one final point to make and that is with clause 32 entitled "Political Partisanship". It seems quite obvious that this clause is simply a carry-over from the old Civil Service Act and it amounts to an outright prohibition of political activities on the part of public employees. If Revenue Minister Benson was serious when he stated this bill initiates a totally new era in the relationship of the Government of Canada with its employees, then we feel certain he is also prepared to grant them first class citizenship rights, and we believe, along with a vast preponderance of supporters, that these full rights as Canadian citizens include not only the right to belong to unions and organizations of their choice, free to engage in full collective bargaining but also free to enjoy full political rights. It is time we matured in this respect, and we submit that the prohibitions in clause 32 will continue, as they did under the old Civil Service Act, to create more headaches than freedoms.

Mr. Chairman, before I close I would like to draw to your attention the fact that we have made a submission to the Prime Minister asking for the privilege of appearing before this Committee again after the Judge Montpetit Commission Report is circulated. I have a copy of the telegram signed by the Prime Minister, which indicates that it might be the policy of the government. I will turn this over to you now.

The JOINT CHAIRMAN (*Mr. Richard*): I have a copy, Mr. Otto, with reference to this request and I understand the Montpetit report is being translated and will be made public within the next 10 days. You will, no doubt, have an opportunity to make your submission before this Committee.

Mr. KNOWLES: Could these extraneous telegrams be read to us so they will be on the record?

The JOINT CHAIRMAN (*Mr. Richard*): We could make them part of the record if you wish.

Mr. KNOWLES: Are they that long?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, they are very long. If Mr. Otto wants to read them, it is quite all right. We received copies this morning but if Mr. Otto will read them, it will save time, rather than talking about them.

Mr. TARDIF: Could copies be distributed?

The JOINT-CHAIRMAN (*Mr. Richard*): We will have them read and then they will be on the record.

Mr. OTTO: Mr. Chairman, I will read a copy of the telegram that was originally sent from Winnipeg:

Mr. Prime Minister:

The following resolution was unanimously passed at a joint mass meeting of postal workers in Winnipeg Sunday October Second 1966:

Whereas the Judge Montpetit Commission of Inquiry into working conditions in the Post Office Department completed its investigation during the early part of 1966 and whereas assurances were given that the findings of this commission would be made available to all interested parties including the people of Canada, at the earliest opportunity and whereas we are firmly convinced that the findings of this commission will fully substantiate the numerous complaints submitted to the Commission by postal workers from every part of the country therefore be it resolved that the joint Senate House of Commons Committee on Bill C-170 be instructed by the Prime Minister that they do not finalize their proceedings until after Montpetit Commission Report is made public and be it further resolved that the Letter Carriers Union of Canada and the Canadian Union Postal Workers be granted the privilege of making further submissions to the parliamentary Committee on Bill C-170 in the light of the Montpetit Commission Report.

R. Otto, Vice-President CDN Union of Postal Workers;
J. Colville, Sec.-Treas., Letter Carriers Union of Canada;
Y. Gatehouse, Field Officer CDN Union of Postal Workers;
D. Mowat, District 7. Rep., Letter Carriers Union of CDA;
Grant McLeod, President, Winnipeg and District Labour Council.

● (10.20 a.m.)

Mr. OTTO: I don't have a copy of the reply with me, Mr. Chairman. I can get a copy to send later—

The JOINT-CHAIRMAN (*Mr. Richard*): That will not be necessary. I will read the copy which the Clerk of the Committee has.

This is the reply from the Prime Minister, which is dated October 5:

I have your telegram of October 3, 1966, concerning the resolution passed at the meeting of postal workers in Winnipeg on October 2 relating to the Commission of Inquiry into working conditions in the Post Office Department. The Government has not yet received the Commission's Report. I am informed that it is likely to be submitted around the middle of this month. It will be made public as soon as possible after it is received.

I understand that the Special Joint Committee of the Senate and House of Commons to which Bill C-170 was referred on May 31 has begun to hear representations, and I believe it is unlikely to make a final report to Parliament before the Commission report becomes public. You will appreciate that it is for the Joint Committee to arrange its business as it decides, but I shall bring your telegram to the attention of the Joint

Chairmen. They will undoubtedly report the resolution to the Joint Committee which, I feel sure, will want to give the Letter Carriers' Union of Canada and the Canadian Union of Postal Workers an opportunity to make submissions in the light of the Commission report.

I understand that representatives of the postal workers are to meet the Joint Committee later this week. They could of course raise at that time the points made in the resolution.

L. B. Pearson

I have no doubt this Committee will take notice and will, of course, want to hear the postal workers after the Montpetit Report is out.

Mr. KNOWLES: I think we should give them that assurance now. I am sure they understand that the Prime Minister does not instruct this Committee, but we wish to do it anyway.

Mr. BELL (*Carleton*): I am sure it is the wish of everyone to hear them at the appropriate time on our own initiative and not on the instruction of the Prime Minister.

The CHAIRMAN: I think the Prime Minister made that clear that it was our business to do so.

Mr. LEBOE: If you would permit me, I realized later that we were under a misapprehension about the powers of the Committee. It is your business to arrange the proceedings and it is our intention to give you full opportunity at the proper hearing.

The JOINT-CHAIRMAN (*Mr. Richard*): I would like to thank Mr. Kay and Mr. Otto for their very complete submission and very forthright and colourful language.

Mr. BELL (*Carleton*): Could we know how many members there are of the Canadian Union of Postal Workers?

Mr. KAY: There are eleven thousand.

The JOINT-CHAIRMAN (*Mr. Richard*): The next brief comes from the Canadian Postmasters' Association. Mr. LeBoldus.

Mr. John M. LeBoldus (National President, Canadian Postmasters' Association): Mr. Chairman, this is my first appearance before a committee of the House of Commons and I would like to express my gratitude to you, Honourable Senator Maurice Bourget and Mr. Jean-T. Richard for giving me this opportunity to be heard. I represent the Canadian Postmasters' Association. We are here alone. We do not have the benefits of association with any labour movement in Canada. We are not able, for financial reasons, to bring with us experts in the field of labour law, or research scientists or counsellors of any description. We are an association comprising the postmasters of Canada and their assistants. Your postmaster, gentlemen, whether he comes from town or hamlet, has been over the years, and still is, our major concern.

As I said, we represent the postmasters of Canada and their assistants. The Canadian Postmasters' Association was organized over sixty years ago, in 1902. It was at first representative of only a few postmasters in restricted areas of the country. Today it is organized in every province of Canada, with the provinces of Nova Scotia, New Brunswick, and Prince Edward Island welded into one

group known as the Maritime branch. Of the 8,478 postmasters in the country, 6,061 are members of our association. I would venture to say, of the balance, a great percentage of them are too poor to join. Further, we number among our members 1,063 assistants. These two groups, assistants and postmasters, have been inseparable down through the years in Post Office operation and in fraternal association. We are primarily an association of small town postmasters and assistants.

Upon studying the legislation now before this Committee, we find ourselves in agreement with the contents of Bill No. C-170. Under Section 26 we are assured the right to meet with our employer to discuss proposed changes in salaries and working conditions. The bill also makes provisions for resolving grievances between ourselves and our employers. With this we are satisfied. What we are concerned about, however, is the category into which we are to be placed for purposes of collective bargaining. Postmasters are in a group by themselves within the public service. They cannot be compared or aligned with any other group. This is also true of their assistants. We cannot, for example, compare postmasters to postal clerks, mail handlers or letter carriers. While a postmaster may sell stamps, write money orders, sort mail and despatch and deliver it, he must also interpret all directives and regulations emanating from the Department or the district office. In hundreds of towns and villages throughout the country he is the sole representative of the federal government. He is a unique combination of manager and employee that is to be found nowhere else in the entire service. He is in direct daily contact with the public as is no other type of public servant. His daily contacts are the people whom you gentlemen assembled here represent in the parliament of Canada. The post office is the window of the public service of Canada. In many communities the postmaster is the banker, the confidante of his patrons and the liaison officer between the government of the country and the public. The same, to a great extent, can be said of his assistant. Once a week the assistant is, in effect, the postmaster in full charge of the office. The same is true during the postmaster's vacation or when he is on sick or special leave. This combined group has for years stood together in the public service, banded themselves together in a free and democratic association known today as the "Canadian Postmaster's Association", an association that has always enjoyed the confidence of the Post Office Department. This confidence was earned through sensible, fair and open negotiation. If we are classified with a group whose methods and interests are not identical with ours, we stand to lose something which we hope to maintain as bargaining agents for our group.

Over the years, resulting from the efforts of the Canadian Postmasters' Association, the lot of postmaster and assistant has improved immensely. Many of us are now enjoying vacation with pay, sick leave benefits, promotion opportunities. The rest, while still being denied the latter, do receive gratuity in lieu of vacation, and those who are contributing to superannuation may compete in promotional competitions. As we go forward to collective bargaining, postmasters, together with their assistants, must go together, separate and distinct from any other occupational group. As a separate and distinct group alone, will the interests and the welfare of this branch of the Public Service be best taken care of.

Respectfully submitted this 23rd day of June 1966 when this was originally prepared, Mr. Chairman, John M. LeBoldus, National President, Canadian Postmasters' Association.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. LeBoldus. I am sure the Committee is very glad you came here this morning to present this brief.

We have now the Letter Carriers' Union of Canada represented by the President, Mr. Roger Decarie. Mr. Decarie will read his brief in French.

(*Translation*)

SUBMISSION BY THE LETTER CARRIERS' UNION OF CANADA TO THE
JOINT COMMITTEE OF THE SENATE AND HOUSE OF
COMMONS ON THE PUBLIC SERVICE OF CANADA

Messrs. Chairmen, and Members of the Committee:

This brief is submitted to you by the Letter Carriers' Union of Canada, which includes some 9,000 members, representing nearly all the Letter Carriers in every town across Canada where the delivery of the mail is the responsibility of the Post Office Department. Our Union being affiliated to the Canadian Labour Congress, and being very active particularly in the larger concentrations of trade unionism in Canada, our members have acquired a sense of responsibility, both as Workers and as Canadian Citizens.

We have tried, in our analysis of Bills C-170, C-181 and C-182, to make use of our experience and our knowledge of relations between employer and employees in the Public Service.

We are appearing before you with no intention of reminding you of past history, but simply because it is in everyone's interest that the employees of the Public Service should be able to determine their working conditions jointly with their employer.

Once Bills C-170, C-181 and C-182 have been adopted, they will then constitute the law governing the relations between employer and employees in the Public Service. For the first time, after a long wait, Federal civil servants will be entitled to take part in collective bargaining. There must be good faith on both sides, and we trust that the negotiations will be carried out with due regard to the Bill of Human Rights.

It would seem, however, upon reading those three Bills, that some of these rights were overlooked, as we will set out to prove. Nevertheless, the fact remains that in the history of the Public Service, the adoption of these bills will mark an important step forward, and we have no hesitation in admitting that this is, on the whole, a progressive measure.

Any Act is a legislative measure which defines the relations or the restrictions between parties. In the case of labour legislation, the general aim is to defend and protect the right to organize, and to regulate relations between employer and employees in private industry in such a way as to keep to a minimum the disputes that might arise. This objective however, which one would expect to find in Bill C-170, is not fully present because in terms of the Act under discussion, the legislation fulfills all the functions of employer, arbitrator, conciliator and judge at the same time. Bill C-170 which, for the first time, should make it possible for employees to negotiate in good faith with

the employer, is weakened at the outset, because it is the employer who determines the rules under this law. The provisions of Bill C-170 tend to favour the employer, and this imbalance which is inherent in the Bill will provide less than full collective bargaining and sound relations between employer and employee. If this proposed Bill is passed in the form in which it is now before you, it will fall short of providing Government employees with the system of collective bargaining they have a right to expect.

To achieve sound relations between employer and employees, it is important for the associations representing Public Service employees to enjoy a certain amount of latitude and initiative, and to be given the opportunity of building up a relationship that is satisfactory to the associations as well as to the employer. If they are going to be forced to adhere to rigorous and narrow rules, the relations between employer and employees will suffer thereby, and this will result in undesirable side-effects which those very restrictions were ostensibly designed to prevent.

We cannot help but criticize the all too large number of restrictions in Bill C-170 in its present form. It would seem that the Government, in its capacity as employer, affirms by means of this legislation that it has no intention of allowing a full and free exchange of viewpoints, nor the reciprocal concessions which are so necessary to any good relationship between employer and employees, in a collective bargaining framework.

We feel that the Government does not want to establish such a set-up, or that it doubts whether it is possible to establish a system of free relations in the Public Service, without padding this law with inexplicable restrictions.

What gives us more concern than anything else is the fact that the Government, being at the same time the employer, has, in this legislation, eliminated from the field of collective bargaining many of the working conditions affecting its employees, and has taken it upon itself to dictate the subjects on which we will be able to negotiate. The Government strikes us as an expert poker player who has himself shuffled the cards and dealt himself all the aces. It cannot lose. It evidently does not want to impose upon itself a low governing collective bargaining and rules of conduct such as it has established for employers and employees in private industry.

We believe that Bills C-170, C-181 and C-182 are needlessly complicated and too restrictive. There are too many arbitrary and unilateral barriers which prevent the employees from taking part in the determination of their own working conditions. The means of settling disputes and other differences are unnecessarily complicated. The bills fail to provide the freedom of action to the employee associations which is present elsewhere in the Public Service and particularly in the crown corporations. The powers conferred upon the Public Service Staff Relations Board will create a monster of authority which is neither necessary nor desirable.

Bill C-170 eliminates at the start the right of employees to form bargaining units and appoint bargaining agents of their own choice, and it tramples underfoot the right of staff associations to manage their own internal affairs. No appeals procedure has been provided. Bill C-170 contains no provisions to safeguard those rights which employees elsewhere already enjoy, such as, for example Union security and deduction of dues at source. By preventing the

employees from making decisions of a political nature, Bill C-170 implicitly amends the Bill of Rights. In effect, the Government seeks to maintain in large measure that which it has hitherto practised in the Public Service—a unilateral system of regulation. There is little opportunity left to either party, employer as well as employee, to determine their own procedures with a view to solving their problems within the framework of the proposed legislation. The limitations of Bill C-170 being much too complex and restrictive, they have the effect of hampering the freedom of action of the staff associations.

We should like to enumerate some of these:

(1) The restrictions imposed with regard to the qualifications required of the members of the Board, of the Arbitration Tribunal and other bodies, (See Articles 31(1), 61(1), 80(6) and 92(6));

(2) The interference on the part of the Board in the internal affairs of a Council of employee organizations, (See Articles 19(1) (k) and 28(2) (b));

(3) The requirement for the Board to satisfy itself, for certification purposes, that the association representatives "were duly authorized to act on behalf of the members of the Union", (See Article 34):

(4) The obligation to choose beforehand the method by which disputes are to be settled, (See Articles 2(w) and 36(1));

(5) The forced preservation of decisions taken under Section 36(1), for three years, followed by a period of 180 days, (See sections 27(2) and 38(5));

(6) The time it takes before a collective agreement can be concluded, (See Article 57(4));

(7) Laying down beforehand the desired decision in case of arbitration, (See Section 63(2) (a) and 64(2)); and

(8) Requiring the Board to make rulings on grievance procedures, (See Article 99).

We sincerely believe that the provisions we have mentioned in the foregoing are most certainly unnecessary. All they do is complicate Bill C-170. What it amounts to is that the rights of staff associations to be represented by representatives of their own choice and to establish their own councils for collective bargaining, are being disregarded.

The Government appears to give its employees the means of settling differences through this legislation, but the trade unionist sees in it only Utopia, which cannot fail to lead to general discontent and disorder in the Civil Service.

We wonder why the Government resorted to such elaborate and complicate procedures for the Public Service, when a much more straightforward formula was already in existence, namely the Industrial Relations and Disputes Investigation Act, which it deems satisfactory for industries under the jurisdiction of Parliament. This Act, which has not been amended since 1948, is regarded as satisfactory for the purpose of governing employer-employee relationships in the industries under the jurisdiction of the Canadian Parliament, such as the Railways, Airways, Radio and Television, Navigation, Harbours etc. Therefore it could likewise serve to govern the relations between the Government and the employees engaged in the handling of mail.

When the Province of Saskatchewan decided to grant collective bargaining to its own employees, it contented itself with including the words "Her Majesty

in right of Saskatchewan" in the definition of the word "employer" in Article 2(f) of its Act on Trade Unions, and the civil servants were placed on the same footing as any other employees.

Section 2(h) is much too vague to our way of thinking. The omission of rates of pay and hours of work leads us to believe that the employer is not anxious to discuss these most important points in a collective agreement. The fact remains that wage rates and working hours must needs be an integral part of the collective agreement, and should have been mentioned in this section. We are pledged to have the words "and related matters" deleted from this section, for these few words give the Board extraordinary powers which are not needed and which will hamper free negotiations considerably, for an indefinite period might well elapse before the Board defines what it understands by "related matters". To this day, the Postal Authorities have not yet defined satisfactorily this term which the Post Office Department has been using for many years.

In paragraphs (P) and (T) of section 2, the term "grievance" is used only as it applies to an employee. The Bill does not take into consideration that grievances might also be submitted by a group of employees, or by the bargaining agent itself. This oversight becomes noticeable again in section 90, and we would request the Committee to make recommendations to correct this.

The part of paragraph (aa) of section 2 which mentions a "slow-down or any other concerted activity on the part of employees designed to restrict or limit output" would mean, in the eyes of the Board, a work stoppage, which it might well regard as a strike. Such determination on the part of the Board could have serious consequences for the employees, for alleged action of this sort on the part of employees can only be assessed by their immediate superiors. This could easily lead to discrimination, and would, without a shadow of doubt, cause countless almost insoluble differences which no collective agreement could safely endure.

Section 7 provides that the employer has authority to group and classify positions. The employer could well interpret this to mean that positions may be reclassified to a lower level, which would entail a "freezing" of the salary of the employees affected thereby. This could lead to a breach of the agreement. These words are much too vague, and what is more, they are superfluous, inasmuch as the employer is in a position to determine how the Public Service is to be organized, since he is entitled to assign the duties to the employees. This task of grouping and classifying positions should be left to the negotiators.

Sections 8 (1) and (2), and 9 (1) refer to prohibitions with regard to activities commonly referred to as unfair labour practices, such as when a person employed in a managerial capacity and therefore representing the employer, participates in the formation or administration of an employee organization. Since it is impossible to impose monetary penalties on the employer, provision should be made to discipline or otherwise penalize such a person who is part of management, if his activities were clearly contrary to the provisions of the Act. No person who is employed in a managerial capacity should be able to indulge, with impunity, in unfair labour practices.

Sections 11 (2) and (3) came as a surprise to us, because of the thought that the Chairman and the Vice-Chairman could be dismissed from their post because of misconduct. We find it difficult to understand the reasoning of the

legislator in this connection, on a question which can be interpreted in a thousand different ways. Is this supposed to mean that if the Chairman or the Vice-Chairman, under circumstances which would fully warrant such a decision, should pronounce themselves in favour of the employee, the employer could then accuse them of misconduct, for the simple reason that the employer does not share the views of the Chairman. This could give rise to conflict of interpretation and jurisdiction. These words should be amended, and we request you to make a recommendation to this effect.

Section 13, (1) (c) is objectionable. We protest strongly against the conditions to which the appointment of the members of the Board is made subject, by specifying that "a person is not eligible to hold office as a member of the board if he is a member of or holds an office or employment under an employee organization that is a bargaining agent". To the best of our knowledge, members of labour relations boards are not subject to such restrictions. In incorporating this sub-paragraph into section 13, the Bill eliminates with one stroke of the pen anything which might, at first glance, seem to give the staff associations equal representation on the Board.

Not satisfied with limiting the possibilities of the employees being represented on the Board, the Bill goes further by requiring that anyone wishing to hold office as a member of the Board must sever any links he may have with his staff association, be it as a member or as an official. It follows that the representatives of the employees would have to be from outside the staff organizations. This is a measure which we deplore, and for which we can find no justification. It suggests that the Government intends to make the Board a Court of Law rather than an administrative body, where the employee and the bargaining agent would feel as lonely as "Daniel in the Lion's den" when appearing before the Board to apply for certification. Such restrictions with regard to the requisite qualifications apply alike to members of the Arbitration Tribunal, the Board of Adjudication and the Conciliation Board. (See Sections 61 and 80).

Sections 18, 19, 23, 28, 34, 35, 60, 63, 64, 65, 66, 67, and 75 deal with the powers and duties of the Board. The interest of the Letter Carriers' Union concerning the mandate of the Board is to see that it is established in a democratic manner, and that both employer and employee are given equal representation on it. We want this mandate to be concise, and we want the powers of the Board to be limited to what a labour relations board should be, in the accepted sense of the term. We object to it being made a court of justice, or a legal enquiry with the object of interfering in the internal conduct of staff associations, to the point of subjecting the very conscience of members of our Union to scrutiny. We want both the employer and the bargaining agent to enjoy the same maximum measure of initiative and freedom of action, so that they may negotiate a collective agreement unfettered and in good faith, and so that they may resolve, by arbitration or by conciliation, any disputes that may arise. The Board, as instituted in Bill C-170, is a far cry from the Canada Labour Relations Board, but it should nevertheless fulfil the same function.

Section 23 deals with questions of law or jurisdiction which may be referred to an Arbitration Tribunal or to an Adjudicator. At first sight, this article appears inoffensive and seems to make sense, since the Arbitration

Tribunal or the Adjudicator *must* refer the question back to the Board if it is of the opinion that it is a matter of law or jurisdiction. However, having been referred back to the Board any procedure in connection with the matter in question is then suspended until the Board has decided the question. This can cause endless delays. It would be far more practical for the arbitrators themselves to come to grips with the problems as they arise. Their competence having been established, they could avail themselves of the means then at their disposal to solve the problem, whilst at the same time remaining within the confines of their mandate, which is to hand down a decision on the matter under arbitration.

We are firmly convinced that Section 23 should be eliminated, and we ask that it be dropped, for the simple reason that the adjudicator and the parties to the dispute may use Section 23 to shirk responsibility, and leave it up to the Board every time a dispute appears to them to contain elements of law or jurisdiction. We are of the opinion that the Act would lose none of its value or effectiveness if Section 23 were to be deleted altogether.

According to Section 28 (2) (b), the Board may certify a Council of employee organizations as bargaining agent only after having satisfied itself that "appropriate legal and administrative arrangements have been made". We feel it is not up to a Board of this kind to determine the suitability of the measures that precede the formation of a council; this should be left to the staff associations to decide.

Sections 34 (d) and 35 (1) give the Board an inflated and unwarranted authority, such as is found nowhere else in labour legislation. We consider this unsound.

According to Section 60, members of the Arbitration Tribunal are appointed by the Board, including the employees' representatives. This again is a case of flagrant injustice, for the members who represent the employees should be chosen by the latter.

Sections 63 to 67, and 75, grant the Chairman of the Board wide discretionary powers ranging from settlement of disputes to arbitration. The conditions set out in these sections give rise to certain drawbacks which we will discuss further on in this brief, which have the effect of delaying the settlement of disputes, not to mention the fact that they are going to cause complications which are as inevitable as they are unnecessary. We feel that the parties to a dispute could very well settle it without interposing these provisions which deal with arbitration. The Letter Carriers' Union has in the past repeatedly protested against any form of compulsory arbitration for the settlement of disputes in connection with a collective agreement. In incorporating in Bill C-170 alternative ways of settling disputes, the Government seems to have proven us right when we envisaged an optional formula, under which the bargaining agent may have recourse to strike action in case of a dispute.

Collective bargaining is a contest of strength between the employer and the employees which can only become less sharp by experience, maturity and good faith, to say nothing of the mutual acceptance of the responsibilities which labour legislation may prescribe. Those labour laws do not, at any time, deprive either the employer or the employee of their freedom of action or initiative.

This way, however, the employer can simply close the door if he does not wish to negotiate with one or the other staff association, even if the law obliges him to recognize such an association, and it is not obliged to sign a collective agreement, but neither can it fight it, by unethical methods or practices. The employer is not, according to the agreement, obliged to give advance notice of his intention to close his door. The Union, for its part, should not be obliged to announce well in advance its intention to resort to strike or to any other means of settling disputes. Both parties are free to determine their own strategy and to set up any programme of action that may best be suited for each one's purpose.

The Government, remembering that it is the employer, has again dealt itself all the aces in the game of negotiation. It wants to give the employee nothing which might enable him to fight with the same weapons, and deprives him of the opportunity of working out his own strategy. According to Bill C-170, the bargaining agent must, even before being certified as such, let the employer know which of the procedures for the settlement of disputes it is going to choose. In other words, the employer must be made aware of the strategy the Association is going to adopt before entering the bargaining arena, and this enables him to work out elaborate defensive measures, which leaves the association little opportunity to use its arguments to best advantage. This is a battle the outcome of which is pre-arranged, which certainly cannot be described as fair play. But the Government does not stop there; it then fetters the bargaining agent with a restriction that we can only describe as undemocratic. Section 37 (2) imposes a duration of 3 years with regard to the choice the association makes, and to complicate this even further, the bargaining agent may change the method only when the Board has satisfied itself, in terms of Section 38, that the employees support such change. And in order to render this concession even less accessible, it is necessary to wait 180 days after so having satisfied the Board. What this amounts to is that the method cannot actually be changed for at least 3½ years.

Fundamentally, sections 36, 37 and 38 are a flagrant denial of the democratic right of the employees to decide for themselves by what means and at which moment they may choose the method they prefer in case of a dispute with their employer.

Since section 89 of Bill C-170 gives the employer and the bargaining agent the right to transform a Conciliation Board, by mutual consent, into an Arbitration Board which binds both parties, we cannot understand nor do we see the need for sections 36, 37 and 38.

Perhaps the Government, by wanting to give itself the advantages under Bill C-170, wanted to convey the impression that it was giving the associations a right for which they had been clamouring for years, but put it in such a way that it would be complicated and impractical enough to discourage the less experienced, so that they would relinquish the right to strike as prescribed under the Industrial Relations and Disputes Investigation Act (1948—C.54)

We believe that the way to settle a dispute should be decided at the time when a dispute breaks out, or threatens to break out, and not 3 years beforehand. We request you to ask, in your recommendations, that articles 36, 37 and 38 be deleted in favour of article 89, which is similar to section 38 of the Industrial Relations and Disputes Investigation Act.

In considering section 60 of the proposed Bill, we do not raise any objection against the appointment of adjudicators or arbitration Boards. This is current practice, and is accepted in all collective bargaining agreements in Canada. But it must be said that those arbitration boards, even when permanent, were created voluntarily by the parties concerned, and not by means of a legislative measure, and the adjudicator or the members of such arbitration boards were chosen by the parties in question.

Paragraph 4 of section 60 denies the associations the right to choose their own representatives. Here again, the Government seizes for itself a right which should be available to the employees. Furthermore, we disapprove of the powers bestowed upon the Chairman, who is authorized, by virtue of paragraph 4, to select the other two members who are to make up the tribunal together with the Chairman. The members of the Committee must surely be aware that in terms of the Industrial Relations and Disputes Investigation Act, the representatives themselves choose the chairman. There is no doubt whatsoever that conflicts of interest are bound to arise among the members of the tribunal.

Sections 63 (2) (a) and 64 (2) are beyond us. Why must we specify beforehand our proposals with regard to the award to be made by the Arbitration Tribunal? This could conceivably lead to arguments of a legal nature and to unnecessary delays. These sections 63 (2) (a) and 64 (2) should not be incorporated in Bill C-170.

At the outset of this brief, we voiced objections with regard to the excessive powers vested in the Chairman of the Board. Article 75 bears out our fears, inasmuch as the Chairman may again refer back to the Arbitration Tribunal any arbitral award that has been made, if "it appears to him" that the arbitral award that was made has failed to settle the dispute. It seems to us that if the parties are satisfied with an arbitral award that should be the end of the matter, and should be treated accordingly.

Analysis of article 26 of Bill C-170 reaffirms our impression that the Government wishes to conduct collective bargaining as it chooses. It reserves for itself the right to make unilateral decisions with regard to bargaining units. The civil servants will be obliged to accept against their will the bargaining units that their employer is willing to grant them. Whether they like it or not, these units will remain in force for 28 months. After this period, the associations may make other arrangements, with a view to serving the needs of their members more effectively, provided they are still in existence and provided they still have enough strength left. This method is really extraordinary in a country like ours, where progress is making itself felt in every field. This is a retrogressive and highly undemocratic measure.

We obtain a strong impression that the Government is fearful of facing up to its responsibilities as an employer, and of giving its own employees those very rights which it demands that employers in private industry and Crown corporations give to theirs. We do not wish to find fault with the various other staff associations in the Public Service. But the Letter Carriers' Union of Canada cannot remain passive in face of section 26. We see in it a danger for all staff associations, no matter which, of losing their identity, or of being forced to form councils whether they want to or not. This policy is neither very

satisfactory nor very efficient from the employer's point of view, and it leaves much to be desired from that of the employee. We concede that problems might arise when it comes to recognition of one or another of the associations as bargaining agent, but we would point out that the policy expressed in section 26 will create much more serious problems, problems as far-reaching as any other difficulties that could arise from any other procedures. Section 26 reverses the method of certification laid down in the Industrial Relations and Disputes Investigation Act and in corresponding provincial laws. The prefabrication of bargaining units by the Government restricts the freedom of associations more than does the Act governing Crown Corporations. We may have to wait for years before the Letter Carriers are going to be free to choose their bargaining unit for themselves. It is almost certain that the Government will end up doing just what it likes with regard to the organization of employees for the purpose of collective bargaining.

In terms of paragraph (1) (a) of section 26, the Governor-in-Council shall, by order specify and define the several occupational categories in the Public Service, enumerated in sub-paragraphs (i) to (v) of paragraph (i) of section 2. A certain detail in this section is conspicuously absent. We refer to recognition by the Governor-in-Council of a trade or specialized job which would set the employees apart for certification purposes by specifying and defining the various bargaining units of employees who belong to a category engaged in a trade or who exercise technical skills by dint of which they can be set apart from an occupational category as a whole.

We believe that Letter Carriers should be recognized as doing a skilled, technical job which distinguishes this group completely from the rest of the Staff employed by the Post Office Department. We ask you to recommend that section 8 of the Industrial Relations and Disputes Investigation Act be incorporated into Bill C-170.

We strongly protest against section 39 (2) of Bill C-170, which robs the civil servant of the sacred right of any Canadian citizen to play an active part in the political life of his country. This dictum which lays down that a civil servant loses his freedom the moment he signs his letter of appointment, is given expression in this section. He thereby becomes a second-class citizen, since he can no longer fulfil all of his duties and enjoy all of his rights like any other Canadian citizen. The Letter Carriers' Union of Canada has always thought that civil servants would obtain full franchise when the Canadian Parliament adopted the Bill of Rights. In Great Britain, which the Canadian Government often holds up as a model, the Union of Postal employees is affiliated to the Labour Party, and the members pay contributions to it. In France, the Government does not raise any objections either. In the United States, the Civil Service associations openly support candidates for Congress.

By introducing proposed legislation like Bill C-170, Bill C-181 and Bill C-182 the Government, whether it wants to or not, inevitably pushes the civil servants into becoming involved in politics, if only as a means of asserting their viewpoints.

When a Government introduces undemocratic legislation, it is the duty of every honest citizen to oppose it, regardless of whether he is a member of an association or not. We cannot quite understand the Government's fear to give its employees full franchise. We live in a democracy, and every Canadian is

entitled to have his say in the politics of the country. We are of the opinion that section 39 (2) should be omitted altogether from Bill C-170, and we would ask you to make recommendations to this effect. Still along the same lines, section 32 of Bill C-181 should likewise be changed with a view to having this deprivation or rights eliminated.

● (11.10 a.m.)

(English)

The JOINT CHAIRMAN (*Mr. Richard*): It is 11 o'clock. I do not know whether it is the wish of the committee to continue? There are still about seven pages to be read. If we could finish these pages this morning—

Mr. TARDIF: We might finish these seven pages.

The JOINT CHAIRMAN (*Mr. Richard*): —we might not have to come back this afternoon.

Mr. TARDIF: I would suggest that we finish them off.

Some hon. MEMBERS: Agreed.

Mr. KNOWLES: You will not notice if some of us go to the House, though?

The JOINT CHAIRMAN (*Mr. Richard*): No. Do you have any objections, Mr. Knowles, if we proceed?

Mr. KNOWLES: No.

The JOINT CHAIRMAN (*Mr. Richard*): We will then proceed.

(Translation)

It did not take us long to find, when reading Bill C-170, that certain important subjects had been excluded from collective bargaining. The Government has deliberately omitted from the scope of Bill C-170 certain elements which have a direct bearing on the living conditions and the job security of its employees. Sections 56 (2), 68, 70 (3) and 86 (2-3) of Bill C-170, 28, 29 and 31 of Bill C-181, and 7 of Bill C-182, together represent the elements pertaining to working conditions which the employer does not wish to negotiate with the employees. What we want to establish here is that the scope of collective bargaining has never been delimited or circumscribed. We maintain that negotiations could legitimately cover any conditions that may be of mutual interest to the employer and the employee. Whilst not wishing to repeat ourselves, we must again express our anxiety at finding that the Government is trying to hold on to its unilateral power to make decisions, whilst at the same time creating the impression that it is relinquishing it. This is the source of the uneasiness and friction prevailing in the Civil Service at present. We had always believed that the proposed legislation was introduced with the specific object of replacing these unilateral decisions by a system of collective bargaining, to enable the employees to participate fully in determining their working conditions. That being so, why then put up artificial barriers like the ones provided for in the above-mentioned paragraphs? The bargaining agent should not be prevented from obtaining legislative alterations which would have the effect of improving working conditions. We cannot see why the employer, who has the power to do so, could not propose to Parliament alterations which were previously agreed upon at the bargaining table. It is our considered opinion that by introducing section 56, the employer has permitted himself to take unfair advantage of his absolute power, to further his own interest. We cannot see why

the certified bargaining agent could not propose at the bargaining table, changes to be made with respect to the Civil Service Superannuation Act, and even to the Act respecting employment in the Public Service in Canada when this is passed. If an understanding is reached at the bargaining table, it should be possible for the employer, in terms of the above Acts, to undertake to follow this up with legislative measures. We realize that the position of the employer is a unique one, but this should not be used as a pretext to evade a rightful obligation towards the bargaining agent.

Section 68 imposes a policy on the Arbitration Tribunal. In its capacity as the employer, the Government gives the Tribunal directions and powers which enable it to make decisions on an arbitral award even before the Arbitration Tribunal goes into session. This again is stacking the cards in favour of the Government.

Sections 70 (3) and 86 (3) are in our opinion the most startling aspects of Bill C-170. They forbid the Arbitration Board and the Conciliation Tribunal from handing down an arbitral decision or a recommendation, as the case may be, on "the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees" which constitute what is termed job security. The Government once again claims for itself the absolute right to treat its employees at will in the matters mentioned above. The Letter Carriers' Union of Canada does not believe that our employer, nor the proposed Board for that matter, is infallible, or objective when it comes to eliminating these items from the scope of collective bargaining. Our 75 years of experience enable us to state that it is precisely in this field that abuse is most likely to occur. With the exception of appointments, in order that the merit principle be upheld, we ask that these sections be withdrawn from the act, that these questions be left open to collective bargaining, and that suitable procedures be subsequently included in the collective agreement.

Section 79, which refers to designated employees, has aroused our curiosity. We wonder why it should be necessary to impose this restriction at the very time when collective bargaining is due to start. This most certainly does nothing towards building up confidence. While the parties in question are going to waste precious time determining who those designated employees would be, the bargaining agent will feel tempted to make plans for strike action. Not only will this have the effect of delaying collective bargaining, which will only accentuate whatever differences may exist between the parties, but what is more, the Board will have to cut this Gordian knot. There is a danger of all of this making a mockery of the whole system of collective bargaining and the right to strike.

Sections 83 and 86 (4) confirm the point we made, that the Chairman of the Board is the victim of excessive zeal on the part of the Government, inasmuch as his powers enable him to deliver to the Conciliation Board a statement setting forth matters under dispute, and inasmuch as he is furthermore authorized to alter such statements as he sees fit. How is this Board going to operate if its mandate is constantly changed. A Conciliation Board should be constituted by the parties concerned, according to prior agreement, and it should be able to deal directly with the parties in order to ascertain the underlying causes of the disputes and in order to bring about a conciliation. We feel here that the

Government does not credit the parties with enough common sense to settle certain problems among themselves.

With regard to Section 90, our first criticism is directed against the use of the expression "an employee" in the same way as in the case of sub-sections (p) and (t) of Section 2. Perusing Articles 90 and 91 we find a much more serious fault still. According to the provisions in section (1) (a) (i) of section 90, there are hardly any restrictions with regard to the presentation of grievances, but this is not the case when it comes to applying for arbitration in terms of article 91 (1). Whilst one may complain, in terms of this section, concerning the interpretation or the application of an Act of a regulation, one may not, on the other hand, submit the grievance to arbitration unless one has been subjected to a disciplinary measure involving dismissal, suspension or a monetary penalty. Apart from these exceptions the grievance procedure would end in deadlock.

Article 97 (2) worries us because of the effect it may have on the employee. It may discourage employees from having recourse to the grievance procedure.

The Letter Carriers' Union does have a grievance procedure which was established a few years ago in several locals across the country. We find it unnecessary for the Board to enact regulations in this connection. We feel that we could jointly with our employer set up a grievance procedure which could doubtless be to the advantage of both parties.

Before making a study of Bills C-170, C-181 and C-182, we thought that one of the provisions would surely grant all certified staff associations the right of deduction of union dues at source. But to our great surprise there was no such provision. Does this mean that the bargaining agents are going to have to negotiate in order to obtain a privilege which has long since been granted elsewhere? We request you to recommend an alteration accordingly. Labour relations legislation elsewhere makes provision for what is known as Union security. These acts make it possible to incorporate into the collective agreement provisions such as the Union Shop. We feel that Bill C-170 should include such a provision, and the Letter Carriers' Union of Canada urges you strongly to recommend this for all the staff associations in the Civil Service.

We are not submitting this brief to you with the sole object of tearing down this proposed legislation, but rather because we believe that Bills C-170, C-181 and C-182 indicate certain apprehensions on the part of the Government with regard to their application. We know only too well that in order to be clearly understood one must dot the i's and cross the t's. But what amazes us is that the Government, in its eagerness to leave nothing to change, has even put dots where there is no "i". Everything is so codified that there will be tremendous difficulties putting their legislative measures into effect. It would have been wiser to have made fewer specifications and for the Government to have sought to legislate only on the broad principles of collective bargaining, as does the Industrial Relations and Disputes Investigation Act, whilst allowing details in connection with the Act to be based on regulations which could easily be changed upon recommendation by the Board or by any other executive body specified in the legislation. This is what we believe to be the greatest weakness of these bills.

The functions of the Public Service Staff Relations Board in the Public Service are far too numerous, over and above having to certify the bargaining agents. Not only is it within its province to grant certification, but in addition it must direct arbitration and conciliation, and it must furthermore appoint the adjudicators, and process grievances. Putting it in a nutshell, it must look after certifications on the one hand, whilst on the other hand making full use of its powers to direct labour relations throughout the entire course of collective bargaining. It follows that it must eventually become involved in a maze of details concerning relations between employer and employees, and that rigidities will set in. The certification of bargaining agents could have been left to the Canada Labour Relations Board, which already has all the requisite qualifications. We feel it is undesirable that the body which creates the bargaining units should at the same time act as the body which in effect controls the day-by-day exercise of collective bargaining rights. The functions should be strictly separated, and we cannot see why this is not done. We are convinced that the Government is on the wrong track if it believes that it is easier to run just one Board instead of dividing its authority.

A major flaw in Bill C-170 is undue interference by the Board in the composition of the bargaining unit. The Board should have authority and flexibility to grant certifications in the most reasonable sense of the word. The Letter carriers' Union of Canada objects to this procedure in the Bill which deprives the employee of the opportunity to choose the organization he prefers, and we believe this to be a point of cardinal importance for us as well as for the other staff associations. We cannot see why we should be forced, after having worked as an organization for 75 years, to become submerged, against our will, by order of the all-powerful Board.

Bill C-170 does not mention anywhere the part to be played by the Pay Research Bureau, and we wonder what the Government has in mind for it in the long run. Although the Bureau has, in the past, always been rather restrictive in the distribution of its findings, and although its data have always had to be treated as confidential, we consider that the Pay Research Bureau deserves a place in this proposed legislation. We do believe that with the advent of collective agreements, the statistical data furnished by that office should be made available to both parties before negotiations commence.

In view of the fact that the Post Office Department operates a service and a kind of work which differs drastically from that of any other Department, it should be considered as a separate employer under Schedule A, part II of Bill C-170.

In this connection we draw to your attention a suggestion made by Judge J. C. Anderson in his capacity as a commissioner of inquiry into conditions in the Post Office Department in 1965. In his report he referred to the possibility of the Post Office Department being converted into a Crown Corporation and thereby enjoying a degree of independence of action which it does not have at present. This may perhaps be beyond your own terms of reference but we consider it worthy of reference here nonetheless. If the Post Office were to become a Crown Corporation, it would undoubtedly come within the purview of the Industrial Relations and Disputes Investigation Act, under Section 54. Our Union would be eligible for certification under that Act by virtue of its dominant position as the representative organization of letter carriers. This adds

substance to our proposal that the Post Office Department should be treated as a separate employer and that Bill C-170 should make provision for a craft type of organization for certification purposes.

We think we may safely claim that the relations between our employer, the Post Office Department and the representatives of our Union have been, on the whole, cordial and constructive. It would be a matter of serious concern if they were to deteriorate, as we fear they may, as a result of the too rigid provisions of this legislation.

We believe we have made a realistic appraisal of Bills C-170, C-181 and C-182, and the amendments we have suggested in this submission represent a genuine effort to improve this proposed legislation. It is our very sincere desire to ensure that the Letter Carriers, as well as all other employees in the Public Service, obtain the right to embark upon collective bargaining in the fullest sense of that term.

We have endeavoured to prove that in certain respects the proposed legislation falls short of its avowed aims. If we have, in some parts of our brief, appeared to be excessively bold in putting forward our arguments, we offer our sincere regrets, but you will no doubt appreciate our anxiety to make ourselves clear beyond any possibility of misunderstanding.

The value of the legislation which will eventually be passed will depend in a large measure on the conclusions and recommendations of your Committee. We ask you to give your earnest attention to the opinions we have expressed. It is imperative that the employees of the State be given a statute which is in no way inferior to that of other workers in Canada.

Respectfully submitted on behalf of

THE LETTER CARRIERS' UNION OF CANADA.

ROGER DÉCARIE

President.

J. B. COLVILLE

Secretary-Treasurer.

● 11.10 a.m.

(English)

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Decarie, for a very complete submission. I might say that it parallels a little in my opinion the presentation of the C.L.C. yesterday.

Gentlemen, our next meeting will be on Thursday at 10 o'clock and on Friday of next week. On Thursday we have some small groups, very small, and the Civil Service Commission, the Treasury Board and the Heeney committee, I call it, will present their briefs, and then we will be through with the briefs Thursday and I would suggest that on Friday next we start questioning in the order they came in, probably starting with the Professional Institute, and from then on we are on the questioning, beginning the Monday following and so on. However, you will be advised in plenty of time.

I might say that the New York University papers which I think Mr. Fairweather asked for will be available. Thank you.

Civil Service Commission

Commission du Service civil
August 15, 1966.**"APPENDIX I"**MEMORANDUM TO THE SPECIAL JOINT COMMITTEE OF THE
SENATE AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

SUBJECT: POLITICAL ACTIVITY OF PUBLIC SERVANTS

This memorandum is submitted in compliance with the request made by the Special Joint Committee to the Civil Service Commission for a summary of the provisions governing political activity of public servants in other jurisdictions. The situation currently prevailing in this regard in France, the United States, the United Kingdom and several Canadian provinces are summarized very briefly hereunder.

In view of the remarks on this subject made by the Minister of National Revenue in his statement to the Committee on June 28, 1966, this memorandum concludes with the broad outline of a system under which some latitude with respect to political activity might be accorded to public servants of Canada.

France

Most public servants in France are allowed to be candidates in local and national elections. Exceptions include departmental "préfets" and other specified employees who are not allowed to be candidates in the constituency to which they are assigned as public servants. Public servants elected to offices which do not carry obligations deemed to be inconsistent with their responsibilities as state employees maintain their status as public servants but are given special leave. If, on the other hand, a public servant's electoral mandate is inconsistent with the proper discharge of his duties as a state employee, he is placed in "détachement", that is, in a rather unique statutory situation whereby he ceases to be an employee for a specified period of time, but continues to benefit from seniority and retirement rights.

More generally, French public servants enjoy nearly full political rights. They may join political parties, write for political publications, and participate in political meetings and congresses. It is expected, however, that their behaviour will be characterized by a degree of restraint and moderation commensurate with the social responsibilities which they assume by virtue of their rank in the executive hierarchy.

United States

In the United States, employees in the competitive service may have a normal but unobtrusive political life. They may express their opinions on all political subjects and candidates, make voluntary campaign contributions, participate in non-partisan local elections, sign petitions, attend political rallies and join political clubs, as long as they do so in such a way as not to take an "active part in political management or political campaigns". Employees are specifically prohibited from running for state and national office. The United

States Civil Service Commission enforces the provisions on political activity for employees in the competitive service. In communities where the majority of voters are civil servants, application may be made to the Civil Service Commission for partial exemption from these provisions.

United Kingdom

In the United Kingdom, the public service is divided into three groups with respect to regulation of political activity.

- (1) All service, maintenance and manipulative classes are given the same freedoms in relation to political activity as are enjoyed by all citizens of the country.
- (2) An intermediate group, roughly corresponding to the entire technical and clerical categories and the lower levels of the professional and administrative categories of the Canadian service, are prohibited from being candidates in national elections, but are permitted, at the discretion of their Departments, to engage in political activity, including the handling of funds.
- (3) Members of the third group, corresponding to the remaining, or more senior, elements of the service, are prohibited all political activity, and like all others, must resign if they wish to become candidates.

Canadian Provinces

All Canadian provinces except Saskatchewan, Ontario and Quebec have statutory provisions or follow practices that are identical or very close to the present situation in the federal Civil Service.

In Ontario, the situation follows the federal practice on all points with two major exceptions. Contributions to a political party are not prohibited and leave of absence may be granted to any employee, except senior officials designated by the Civil Service Commission, who wishes to be a candidate in a federal or provincial election. Those defeated may resume their positions, those elected must resign from their positions but may resume them within five years (see attachment for details).

In Quebec, all civil servants are prohibited from engaging in partisan work in connection with a federal or provincial election, but provision is made that a defeated candidate in such an election (who had to resign from the Public Service in order to be a candidate) is entitled to resume his position.

In Saskatchewan, the situation is slightly different as contributions to a political party are not specifically barred and political activity is prohibited only during working hours. In addition, as in Ontario, a public servant is given leave of absence to be a candidate for public office.

A Possible Change

Members of the Committee may wish to consider an arrangement for the Public Service of Canada inspired by practices prevailing in France, the United Kingdom and the United States, but which would also reflect, those emerging in the Canadian provinces. Under such an arrangement, positions in the Public Service would be assigned to one of three groups.

The Civil Service Commission, as an agency independent of the government of the day, might be given a primary role in the administration of the provision on political activity of public servants. The Commission, or any other administering body decided upon, would be charged with the responsibility of designating the positions or classes of positions that would fall in each of the three groups described hereunder, and it would also be the body which would hear appeals against dismissals for contravention of the provision.

- (1) In the first group, comprising the more junior positions in the Public Service, there would be no prohibitions outside normal working hours, and all applications for leave to be a candidate would automatically be approved by the administering body.
- (2) In the second group, the administering body would be responsible for delineating the type of political activity in which various employees, or classes of employees, could engage outside normal working hours, either during or between elections, and would also be responsible for granting special leave to those who, in its opinion, could be eligible to resume their position if they were unsuccessful candidates in a federal or provincial election. In this respect, the rule would be that the actual political activity permitted should not be such as to impair the continued usefulness of the person in the position in which he is employed.
- (3) In the third, or more senior group, the situation that prevails at the moment in the Canadian service would continue, that is, a total prohibition on political activity.

Respectfully submitted,

Jean Charron,
Secretary.

PROVISIONS

governing the political activity of Public Servants in Ontario

taken from:

Government of Ontario, *Working Together for Ontario*, Toronto 1966, p. 31

KIND OF POLITICAL ACTIVITY	Deputy Ministers & Designated Officers	Civil Servants (classified)	Public Servants (unclassified)	Commission and Board Employees
* Candidate for, or Support in Municipal Election Sec. 9a		1	1	1
* Candidate for, or Support in School Board Election Sec. 9a		1	1	1
* Candidate for Provincial Election Sec. 9b(1) & (2)		2	2	2
* Candidate for Federal Election Sec. 9b(1) & (2)		2	2	2
* Solicit Funds for Political Party Sec. 9b(1) (b)		3	3	3
* Speak or Write on Platform Policy of Political Party Sec. 9d		3		
+ Speak or Write on Political Subjects				
* Associate Position with Political Activity Sec. 9b(1) (c)		3	3	3
* Engage in Political Activity During Working Hours Sec. 9e				
+ Engage in Political Activity When Off Duty				
* Canvass for Political Party Candidate Sec. 9c(1)		4		

* Provision in Bill



+ No Prohibition in Bill

Reference:

1. Except when conflict of interest, or affiliation with Provincial or Federal Political Party.
2. Leave of absence granted, with right to return to position in five (5) years.
3. When a candidate on leave during elections.
4. During elections.

This Bill does not affect employees of:

The Hydro-Electric Power Commission of Ontario
 The Workmen's Compensation Board
 Ontario Northland Transportation Commission

 Prohibited
 Permitted

"APPENDIX J"

Montreal, 23 Aug. 1966

Mr. Jean Richard M.P.

Sir:

Resulting from a meeting of the Executive of the Montreal Regional Council of the Civil Service Federation of Canada (CSF), held in Montreal, herein we call to the attention of the members of the Parliamentary Committee on the Public Service in Canada the case which we are submitting.

That the right be acknowledged to negotiate at the regional level all items concerning local affairs. We have in mind such things as: hours of work, bilingualism, parking problems, cafeteria, etc.

In the hope that the above will have gained your support sir, please accept our thanks.

The Executive Committee

Per:

(sgd) Roger Durocher

4900 Taillon

Montreal 5, Que.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

LIBRARY

An Act to amend the Financial Administration Act.

BILL C-182

NOV 8 1966

THURSDAY, OCTOBER 13, 1966

WITNESSES:

Mr. J. A. Taylor; Mr. James P. Duffy, President, Ottawa Typographical Union; Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service; Mr. J. J. Carson, Chairman, Civil Service Commission; Dr. G. F. Davidson, Secretary of the Treasury Board.

ROGER DUHAMEL, F.R.S.C.

QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mrs. Quart,
Mr. Roebuck—12.

Representing the House of Commons

Mr. Ballard,	Mr. Leboe,
Mr. Bell (<i>Carleton</i>),	Mr. Lewis,
Mr. Chatterton,	Mr. McCleave,
Mr. Crossman,	Mr. Munro,
Mr. Émard,	Mr. Orange,
Mr. Fairweather,	Mr. Ricard,
Mr. Faulkner,	Mr. Simard,
Mr. Hopkins,	Mr. Tardif,
Mr. Hymmen,	Mrs. Wadds,
Mr. Isabelle,	Mr. Walker—24.
Mr. Keays,	
Mr. Knowles,	
Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, October 13, 1966.
(15)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.05 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Emard, Fairweather, Hopkins, Hymmen, Knowles, Leboe, Lewis, Orange, Richard, Tardif, Walker (13).

Also present: Messrs. Dinsdale, Enns, Forbes.

In attendance: Messrs. C. C. Devenish, J. A. Taylor; Mr. James P. Duffy, President, Ottawa Typographical Union; Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service; Mr. J. J. Carson, Chairman, Miss Ruth E. Addison and Mr. Sylvain Cloutier, Commissioners, Civil Service Commission; Dr. G. F. Davidson, Secretary of the Treasury Board.

The Committee heard briefs from an independent group and the Ottawa Local of the International Typographical Union.

On a motion from Mr. Bell (*Carleton*), seconded by Mr. Walker, the Committee agreed to accept a letter dated October 6, 1966, from the International Printing Pressmen and Assistants' Union of North America as being read into the record. (*See Evidence*)

Copies of the final report of the Governor's Committee on Public Employee Relations for the State of New York, requested at the morning sitting of the Committee on October 6, 1966 (see page 261), were distributed to the members.

Statements were then made to the Committee by the Chairman of the Preparatory Committee on Collective Bargaining in the Public Service re Bill C-170, by the Chairman of the Civil Service Commission re Bill C-181, and by the Secretary of the Treasury Board re Bill C-182.

The Clerk of the Committee was instructed to prepare a list denoting the order of appearance of witnesses who presented briefs. The Sub-Committee on Agenda and Procedure is to determine the order of appearance of these witnesses for questioning.

On a motion of Mr. Knowles, seconded by Mr. Orange, the meeting adjourned at 12.30 p.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 13, 1966.

The JOINT-CHAIRMAN (*Mr. Richard*): Order. This morning the first group to be heard is an independent group represented by Mr. Taylor and Mr. Devenish. Mr. Taylor, I believe, will present the brief. Mr. Taylor.

Mr. John A. TAYLOR: Mr. Chairman and hon. members of the Committee, it is a pleasure to be permitted to appear before you this morning.

This submission is to the joint Commons-Senate committee on collective bargaining in the public service of Canada, dated July, 1966, presented by John A. Taylor and Clement C. Devenish.

SUBMISSION

This is a request that a "conscience clause" be included in the proposed legislation establishing collective bargaining in the federal public service. We suggest the following wording:

"No public servant shall be bound arbitrarily by conditions of employment which may be imposed as a result of collective bargaining, where the Public Service Staff Relations Board (or other designated authority) finds that the said public servant objects, as a matter of conscience based on religious training or belief, to such conditions: Provided that: (i) such objection is not contrary to the public interest or safety and security of Canada, and (ii) if the public servant is thereby relieved of payment of dues or other financial obligations, he shall pay at least an equivalent amount to the Federal Treasury or to a mutually agreeable charity."

We are encouraged to make such a request, because, in the goodness of God, the lawmakers of this land have provided traditionally for the protection of a sincere conscience.

The Canadian Bill of Rights states that, "The Parliament of Canada, affirming that the Canadian nation is founded upon principles that acknowledge the supremacy of God... Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law... Part I: 3—The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the Regulations Act and every bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purpose and provisions of this part and he shall report any inconsistency to the House of Commons at the first convenient opportunity."

We also quote from the United Nations "Universal Declaration of Human Rights" as follows:

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and
(2) No one may be compelled to belong to an association.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

In addition we are attaching examples of precedents and other pertinent material for your perusal. These include a statement of the principles governing our conscience and a copy of the letter which we submitted to all members of parliament and other interested persons on January 10, 1966.

This is submitted to you in the recognition that you are "the powers that be" which are ordained of God. (Romans 13:1)

John A. Taylor
66 Eldorado Avenue
London, Ontario.

Clement C. Devenish
37 Frontenac Road
London, Ontario.

OUR CONSCIENCE

We are Christians—believers in and followers of our Lord Jesus Christ, the Son of God. As such we seek to maintain in our lives, principles established by an enlightened conscience before God. "And herein do I exercise myself, to have always a conscience void of offence toward God, and toward men." Acts 24, verse 16.

While not seeking to impose our beliefs on others, we ourselves cannot conscientiously belong to staff associations or trade unions. We must heed the injunction of Holy Scripture, particularly second Corinthians 6, verse 14 which says, "Be not unequally yoked together with unbelievers."

It is reasonable to assume that, under collective bargaining, certain conditions of employment may be agreed upon which would violate the conscience and jeopardize the livelihood of certain sincere Christians. These may include features such as compulsory membership, automatic checkoff of dues or other similar arrangements.

We wish to emphasize that we in no way seek monetary advantage in this matter. We are willing to pay at least equal amounts to those assessed to other public servants. These may be paid to the federal treasury, to a mutually agreeable charity or to any recipient as directed by the government except for an avowed purpose incompatible with our conscience.

We pray constantly for the government and those in authority. Included in our prayers is that the government may do what is right in the sight of God and guarantee freedom of conscience in Canada and, in particular, in its public service.

EXAMPLES OF RECOGNITION OF CONSCIENCE IN VARIOUS ACTS
GOVERNING EMPLOYMENT IN SASKATCHEWAN, CANADA AND
IN AUSTRALIA AND NEW ZEALAND. (EXCERPTS)

SASKATCHEWAN, CANADA

The Trade Union Act—Being Chapter 287 of the Revised Statutes of Saskatchewan, 1965, as amended by Chapter 83 of the Statutes of 1966. (Effective May 31, 1966.)

2. (b) "board" means the Labour Relations Board . . .;

5. The board shall have power to make orders:

- (a) determining whether the appropriate unit of employees for the purpose of bargaining collectively shall be an employer unit, craft unit, plant unit, professional association unit or a subdivision thereof or some other unit;
- (1) excluding from an appropriate unit of employees an employee where the board finds, in its absolute discretion, that the employee objects:
 - (i) to joining or belonging to a trade union; or
 - (ii) to paying dues and assessments to a trade union;
as a matter of conscience based on religious training or belief during such period that the employee pays:
 - (iii) to a charity mutually agreed upon by the employee and the trade union that represents a majority of employees in the appropriate unit; or
 - (iv) where agreement cannot be reached by these parties, to a charity designated by the board;
an amount at least equal to the amount of dues and assessments that a member of that trade union is required to pay to the trade union during such period;

STATUTES OF NEW ZEALAND:

Industrial Conciliation and Arbitration Act 1954.

175: Exemption from union membership on religious grounds—

(1) Any person who objects on religious grounds to being a member of a union may apply to the registrar of industrial unions for a certificate of exemption from membership of any union covering the calling in which the applicant is for the time being employed.

(4) If, after hearing any such application, the Conscientious Objection Committee is satisfied that the applicant's religious objections are genuine, the committee shall notify the registrar and the secretary of the union accordingly, and, on payment by the applicant to the credit of the social security fund of an amount equal to the subscription fixed by the union, the registrar shall issue to

the applicant a certificate of exemption from membership of the union for the period specified in the certificate, and may from time to time, if he thinks fit, issue certificates for subsequent periods without further reference to the committee.

(5) A certificate of exemption issued to any person under this section shall, while it continues in force, permit the employment or the continuation of the employment of that person in any position or employment as if he were a member of the union to which the certificate relates.

Also see: New Zealand 1958 (2 Oct. 1958) No. 70—An Act to amend the Industrial Conciliation and Arbitration Act 1954.

COMMONWEALTH OF AUSTRALIA:

Conciliation and Arbitration Act 1904-1961.

47 (3) Where—(b) a person, upon application made to the registrar in the prescribed form and manner, satisfies the registrar that the person's conscientious beliefs do not allow the person to be a member of such an organization, the registrar shall issue to the person a certificate to the effect that, while the certificate is in force, an employer is not required to give preference to members of the organization over the person

Also see: Subsections (4), (5), (6) and (7).

NEW SOUTH WALES:

Industrial Arbitration Act, 1940-1961.

129B (2) (b) Any person who—(i) objects on the grounds of conscientious belief to being a member of an industrial union of employees; and (ii) applies in the manner prescribed to the registrar for a certificate of exemption from membership of any such union; and (iii) satisfies the registrar that his objections on the grounds of conscientious belief are genuine; and (iv) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union for membership of such union; shall be issued by the registrar with a certificate of exemption from membership of the industrial union.

Also see: 129B. (1) (b); (2) (a), (c), (d) and (e).

● (10.20 a.m.)

NOTE: In addition to the above examples some other Acts which make similar provision are:

New Zealand: 1959, No. 86—Pharmacy Amendment Act 1959 (22 Oct. 1959) An Act to amend the Pharmacy Act 1939.

New Zealand, 1960, No. 91—Surveyors Amendment Act 1960 (25 October, 1960)—an act to amend the Surveyors Act, 1938.

New Zealand, 1959, No. 7—Valuers Amendment Act, 1959, (24 September 1959)—an act to amend the Valuers Act, 1948.

I have a copy of a letter addressed to all members of parliament. This letter was submitted in English and also in French to those we knew to be French speaking members of parliament.

66 Eldorado Avenue,
London, Ontario,
January 10, 1966.

Dear Sir:

It has been indicated that the Government intends to introduce legislation to bring federal and public civil servants under collective bargaining.

We, the undersigned, are employees of the Canadian Government who, as private citizens, are writing this letter in an endeavour to ensure that such legislation does not violate our conscience before God. "And herein do I exercise myself, to have always a conscience void of offense toward God, and toward men." (Acts 24, verse 16).

While not seeking to impose our beliefs on others, yet, as followers of the Lord Jesus Christ, the Son of God, we ourselves cannot conscientiously belong to staff associations or trade unions. We must heed the injunction of Holy Scripture, particularly Second Corinthians 6, verse 14 which says, "be not unequally yoked together with unbelievers."

This legislation may, in result, involve features such as compulsory membership, automatic checkoff of dues or other similar arrangements. These, if no exemption clause is provided, would be incompatible with our maintaining a good conscience. However, with regard to the payment of dues, please be assured of our willingness to pay a like amount into either the Federal Treasury or a mutually agreeable charity.

We respectfully draw this to your attention with a view to the inclusion by Parliament of a "conscience clause" in any bill covering collective bargaining in the federal public service. Our request is consistent with the principles enunciated by the United Nations, and precedents have been established already in other Commonwealth countries for such recognition of a genuine conscience before God.

We request your support that freedom of conscience will be guaranteed and the livelihood of sincere Christians protected.

Yours very truly
F. J. Allan, 432—51 Ave. S.W.,
Calgary, Alberta.
C. C. Devenish, 37 Frontenac Road,
London, Ontario.
J. A. Taylor, 66 Eldorado Avenue,
London, Ontario.

I will read the list of certain federal employees supporting submission.

1. Dr. Frederick J. Allan,
Veterinarian in Charge,
Dvorkin Meat Packers Ltd.,
Calgary, Alberta.
Home address: 432—51 Ave. S. W., Calgary, Alta.

2. Clement C. Devenish,
District School Superintendent,
London Education District,
Indian Affairs Branch,
Department of Citizenship and Immigration,
(Department of Indian and Northern Affairs),
London, Ontario.
Home address: 37 Frontenac Rd., London, Ont.
3. W. Donald Pallister,
Administrative Officer I,
Taxation Division,
Department of National Revenue,
Victoria, British Columbia.
Home address: 2408 San Carlos Ave., Victoria, B.C.
4. (Miss) Elizabeth Scott,
Clerk IV,
Income Tax Division,
Department of National Revenue,
Regina, Saskatchewan.
Home address: 1436 Minto St., Regina, Sask.
5. John A. Taylor,
Immigration Officer V,
Senior Job Settlement Officer; Special Inquiry Officer,
Immigration Branch,
Department of Citizenship and Immigration,
(Department of Manpower),
London, Ontario.
Home address: 66 Eldorado Ave., London, Ont.
6. (Miss) Mary Taylor,
Clerk-Typist,
Department of National Revenue,
Calgary, Alberta.
Home address: 432—51 Ave. S. W., Calgary, Alta.
7. (Miss) Mabel F. Woolsey,
Clerk III
Poultry Division,
Production Marketing Board,
Department of Agriculture,
Regina, Saskatchewan.
Home address: 1436 Minto St., Regina, Sask.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Taylor. While it is not my intention to ask any questions, I am sure members would like to know how many people fall into the category that is represented in your brief?

Mr. TAYLOR: Well, sir, I know of approximately 12 persons, but I am sure there are other Christians who share similar feelings.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Taylor.

The next brief to be presented is from the Ottawa Typographical Union. Mr. Duffy, would you please proceed.

Mr. James P. Duffy (President, Ottawa Typographical Union): Mr. Chairman and hon. members of the Committee. This is a brief of the International Typographical Union on Bill No. C-170, an act respecting employer and employee relations in the public service of Canada presented to the special Joint Committee of the Senate and of the House of Commons on employer-employee relations in the public service of Canada.

The International Typographical Union welcomes the opportunity to present its comments on Bill No. C-170 to the special Joint Committee of the Senate and of the House of Commons on employer-employee relations in the public service of Canada.

The I.T.U. is an international union with membership in Canada and the United States totalling more than 125,000. Throughout its 114 years of democratic leadership in the trade union movement, this union has consistently worked for the betterment of the members of its craft and the Ottawa records of the I.T.U., dating back before January 1, 1876, show that our members staffed the Government Printing Bureau from its very inception.

For this reason, the particular area of collective bargaining that the I.T.U. is concerned with under Bill No. C-170, is the composition department of the Government Printing Bureau. In this department the proper unit for collective bargaining consists of more than 400 personnel, of which this union represents the majority.

Through more than 90 years the ledgers and record books of Ottawa Typographical Union tell the story of a constant pressure placed upon the branches of government responsible for the Government Printing Bureau in matters of wages, hours and working conditions. These records contain briefs to the Secretary of State and the Treasury Board presented by this union, by the Council of Union Employees of the Government Printing Bureau, of which we are members, and through the Prevailing Rates Committee of the Canadian Labour Congress of which we have representation.

Throughout these briefs runs a steady request for shorter hours, increased hourly rates and improved working conditions, but above all the demand for the right to bargain for these with the Government's representatives in the same manner as our counterpart in private industry.

Upon the eve of the granting of collective bargaining we are not likely to be too critical of Bill No. C-170, but rather are we hopeful that its arrival will bring about a new era of fair and equitable treatment of employees within the relationship of employer and employee in the Government Printing Bureau.

This is not to say that Bill No. C-170 is all that we would like it to be nor that the methods of collective bargaining under the bill could not be improved to the satisfaction of all parties.

To this end we would like to emphasize the following points:

- (1) The pattern of collective bargaining established in private industry should be maintained.

- (2) Bargaining should be on a craft union basis preferably, but failing this, on the basis of a council such as the Council of Union Employees in the Government Printing Bureau.
- (3) Consideration should be given to transferring the Government Printing Bureau from schedule A, part 1, to schedule A, part II, creating the status of separate employer.

● (10.30 a.m.)

Point 1: For its part the International Typographical Union would prefer to see collective bargaining in the public service follow the pattern established in private industry rather than have two sets of rules, one for public service employees and another for those employed in private industry, prevail. This is particularly true in the area of dispute settlement.

Obviously both employers and employees in any industry have a community of interest and desire to see the industry prosper. To obtain higher wages, better working conditions and a shorter work week, labour in our industrial form of enterprise has been compelled to organize and to bargain collectively with the employers. We believe that the best to be had from negotiation and conciliation can come only from conferences that are free from any compulsory method of settlement if negotiation and conciliation fail.

If, during negotiation, it is known that arbitration will follow if no agreement is reached, the odds against a fair settlement are tremendous.

In this connection we view with alarm the suggestion in Section 36 (1) that failure to agree to compulsory arbitration could result in not being certified by the board.

Point 2: Certification on a craft union basis is preferable to the International Typographical Union. However, failing this, the next step would be certification on a council basis such as the council of union employees in the government printing bureau.

Point 3: Due to the exceptional set-up in the government printing bureau, where the employer is in direct competition with private industry in the production of printing, the union feels that the industry-wide effect of bargaining would be kept on a more equitable basis if the government printing bureau had the status of a separate employer.

In conclusion the International Typographical Union would like to commend the government for taking the necessary steps to implement collective bargaining within the public service. Thank you, Mr. Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Duffy. Your group represents how many people, four hundred?

Mr. DUFFY: There are four hundred in the bargaining unit and we represent 275.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Duffy. We had a representation from the International Printing Pressmen and Assistants Union of North America. It was a letter addressed to the clerk of the Public Service Committee. These gentlemen have not elected to appear but this letter should be placed in the record.

Mr. BELL (*Carleton*): It could be printed in our proceedings at this point today.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much. Will somebody so move?

Mr. BELL: (*Carleton*): I will so move.

Mr. KNOWLES: Is this to be considered a brief?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, as read.

Mr. KNOWLES: I second the motion.

Motion agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): The letter reads as follows:

October 6th, 1966.

Mr. Edouard Thomas,
Clerk of the Public Service,
Committee and Private Legislative Branch,
West Block, Ottawa, Ontario.

Dear Sir:—

In view of our inability to present a brief in connection with Bill C-170, due to lack of sufficient notice, we would like to bring to your attention the following, which is presented in support of other Printing Craft Unions, which have had the opportunity of presenting a brief covering Bill C-170.

The International Printing Pressmen and Assistants' Union of North America, AFL-CIO, C.L.C., (hereinafter referred to as the I.P.P. & A.U. of N.A.) represents a large majority of workers in every phase of the printing industry across Canada, with 59 Locals representing over 12,000 members, which includes a majority of letterpress pressmen and assistants employed by the Government Printing Bureau of Hull, Quebec.

The I.P.P. & A.U. of N.A. wish to submit, for your consideration, the following:—

The Letterpress employees in the Government Printing Bureau enjoy the wages and conditions of work based on letterpress contract prevailing in the City of Montreal. It is necessary to inform your Committee that there is anxiety on their part that Bill C-170 might take away from them these conditions of pay and work that they have enjoyed due to their affiliation with I.P.P. & A.U. of N.A., dating back for many years.

Our International Union has been making semi-formal representations for many years as it concerns employees in the letterpress department. Although it has been on a semi-formal basis, this can now be formalized to conform to the rules and regulations of the Public Service Staff Relations Act, providing these rules are patterned on Industry practices within the Graphic Arts Industry of Canada.

Many trade unions have membership in Government Service, and it is evident now that the right of association is recognized in Government Service. For many years our organization is one of such unions with a history of semi-formal bargaining by representation.

The Graphic Arts Industry of Canada has recognized individual crafts requiring special wages and conditions of work, and look to the Government to follow seriously this established pattern of collective bargaining.

The Canadian Labour Congress, of which the I.P.P. & A.U. of N.A. is an affiliate, in their brief submitted to the Preparatory Committee on collective bargaining in the Public Service, stated the following:— "We would assume that bargaining on behalf of employees in the Department of Public Printing and Stationery would be conducted by the Government with representatives of the Printing Trade Unions affiliated with the Congress."

In summation, we would suggest that the Committee give serious consideration to the Graphic Arts Industry as it concerns Craft Unions and their desire for a certification on a craft oriented basis, and allow them bargaining rights, so that they may continue to enjoy wages and conditions of work that prevail in the skilled classification to which they belong. This could be done on an individual craft union basis or through the Council of Union Employees, as presently constituted in the Government Printing Bureau. We feel and recommend that the final choice should be made by the majority of the individual employees working in their particular skilled trade, and that the Craft Unions be given the same consideration as they receive at the present time within the Graphic Arts Industry.

The foregoing is respectfully submitted to the Special Joint Committee of the Senate and of the House of Commons on Employer-Employee relations in the Public Service of Canada for its consideration.

Respectfully yours,

Signed Roger J. Gagnon
Representative.

We are nearing the end of statements. This morning—

An hon. MEMBER: Just a minute, if I may, Mr. Chairman. Was the brief that has just been tabled presented on behalf of people who are employed in the public service?

The JOINT-CHAIRMAN (*Mr. Richard*): Well, I would not know that.

Mr. LEWIS: Possibly they represent some of the people in the 400 that Mr. Duffy talked about.

Mr. KNOWLES: Well, Mr. Duffy talked about 400 personnel in the composition department of the bureau. I believe that this group is concerned with those in the press section at the bureau. In other words, there is no conflict between the request of the I.T.U. for the composition department to be under their jurisdiction and the request of these people for the pressmen to be under their jurisdiction.

Mr. WALKER: This is not the remainder of the 400.

Mr. KNOWLES: No. There might be a few in there, but in the main this will refer to the pressmen.

The JOINT-CHAIRMAN (*Mr. Richard*): The statements to be presented this morning are as follows: first is Mr. Heeney; he will be here a little later. I see Mr. Carson is here, Chairman of the Civil Service Commission. I would ask Mr. Carson to come forward. In the meantime the clerk could distribute amongst the members the public employee relations final report from the state of New York which was requested last week. I see Mr. Heeney has arrived. I would be very pleased to follow the order. When you are ready you can proceed, Mr. Heeney.

Mr. A. D. P. Heeney (*Chairman, Preparatory Committee on Collective Bargaining*): Mr. Chairman, I think I ought to begin by, if not an apology, at least an explanation for having one other vast document to read to this Committee, which I understand has already been subjected to quite considerable length in the way of briefs. But on reflection, and talking to my colleagues of the preparatory committee about this situation, we came to the conclusion that inevitably, I am afraid, some one of us—and I being the chairman of the preparatory committee, was given the task—should seek to put the legislation which is presently before you in the perspective of, I am afraid, the last two and a half years and indeed, more, because it seemed to us and I hope, Mr. Chairman, that this will also appeal to the committee, that the history of this affair, if I might call it that, is directly relevant to the decisions which you will be called upon to make and the recommendations which you will be making to parliament after your deliberations are over. This really meant that I should seek to give you as cogently as possible a summary of the course of our examination of this problem, particularly over the two years prior to the submission of the preparatory committee's report last July, and draw attention to some of the principal factors which, in our judgment—and mind you this is a historical exercise in a sense—are of particular importance to the regime which parliament will determine for the public service in this exceedingly important element in the whole administration of the public service.

You may regard that as an apology if you like, but it really is, Mr. Chairman, more of an explanation, and I would be prepared to argue that I am justified in asking the Committee to bear with what is, inevitably I am afraid, a rather long presentation.

Mr. BELL (*Carleton*): Mr. Chairman, I do not think Mr. Heeney needs to justify himself at all; I think we are all very delighted to have him here and we are looking forward to his presentation.

Mr. HEENEY: Mr. Chairman, it is more than three years since the preparatory committee on collective bargaining was established to make preparations for the introduction of collective bargaining to the public service. During the previous three years, the whole administration of the public service of Canada had been subject to the most exhaustive examination of its structures and processes that has been undertaken since Confederation. So really I am going back over six years. This study by the royal commission on government organization—I am talking about the Glassco commission now—although it said very little about the matters that are presently before this Committee and very little about the task which was committed to the preparatory committee, did

have this effect upon our work: it created an atmosphere which was favourable, a climate which was favourable for our work and favourable, as I contend, for the veritable revolution involved in the measures which are now before you.

● (10.40 a.m.)

The statutory base and the administrative methods which regulated personnel administration in the service when I joined it in the late 1930's, if I may be allowed to make a personal reference, were no longer adequate obviously to the pressures of government business. During the war years, the emergency powers possessed by the government permitted many of the conventional procedures to be modified or to be set aside to meet the new and heavier demands. In the event, the experience of this period—and I am speaking now of the war period plus the reconstruction period—contributed a great deal to the improvement of administrative processes in the period which followed that. However, the Civil Service Act of 1918 severely limited the scope of innovation and change. Although important amendments to this statute were made in 1961—and members of the Committee will remember the debates which took place on the bill to amend the Civil Service Act on that occasion—the roles of the Commission and the Treasury Board, as they had been assigned in 1918, which is, of course, one of the great watermarks, in the development of the Canadian Civil Service, remained essentially unchanged after the 1961 amendments. The role of employees in the procedure by which their terms and conditions of employment were established, had no statutory base whatever until 1961; that is to say, there was no provision at all in law, for bringing the employees' organizations into the process by which pay determination and condition determination was accomplished. Federal Government employees were, in law, petitioners at the foot of the Throne.

Since 1961 their established organizations have had the statutory right to be consulted by the Civil Service Commission and by the Treasury Board in the two-step process by which the rates of pay of civil servants are presently changed—a cumbersome process, if I may say so, but at least the beginning of wisdom in bringing the employee organizations into the process by which their pay and conditions were determined. But, the authority to initiate a review of rates of pay has remained, as it has since 1918, with the Commission. The final determination of those rates continues to be by a unilateral decision of the Treasury Board. Under the present regime, other terms and conditions of employment are either prescribed in law, or determined by the Commission by the Treasury Board or by departmental management.

The three measures before this Committee are very much more than mere amending legislation, and I would like to emphasize that. This really is a revolutionary concept or series of concepts. It is something quite new in the Canadian experience. These measures are as different in concept and purpose and effect from the act of 1918 as the public service of today is different from the public service of 50 years ago. These measures would vest new and important responsibilities in employee organizations and in the Treasury Board—the two sides, management and the organized employees. They would remove from the Civil Service Commission all responsibility for terms and

conditions of employment, except those—and this is an important exception,—directly related to appointments. These bills are positive documents which would give the Commission and the Treasury Board greater latitude and authority, within their respective jurisdictions, to respond appropriately to the emerging requirements of an expanding and rapidly changing public service. At the same time—this would be an essential, balancing provision, and I would put a great deal of emphasis on this,—if you are going to give management these great new powers, there is only one possible way of balancing the employee situation, and that is to provide for genuine negotiation and collective bargaining. The Glassco Commission said very little about this, and this was a gap. But I am not criticizing royal commissions, because I am much too well trained a civil servant to do that. At any rate the powers they would have attributed to management, in my judgment at least, could not, in a Canadian society, be conveyed to management without providing for genuine collective bargaining on the part of organized employees the right to participate, as an equal, in the determination of their pay and conditions. At the same time they would confer on organized employees a capacity—I am talking now of the present legislation before you—unmatched, I believe, in any public service, of comparable size, to protect their interests and improve their conditions of employment. Many public service traditions of long standing will be set aside by this legislation, if it is enacted by Parliament, but they will be replaced by a regime, in our judgment, much better suited to our contemporary needs and conditions.

Mr. Chairman, because the preparatory committee made a considerable contribution to both the substance and the detail of these three bills—I must emphasize that these are not the preparatory committee's bills, as you understand, but our labours did make an important contribution to both their substance and some of their detail—it might be useful for me to provide the Committee with a very brief outline of the way in which we went about our work two years ago last spring, and to comment on one or two of the more important and contentious aspects of the proposed legislation which have their origins in the report of the preparatory committee.

The preparatory committee was established by the Prime Minister in August of 1963. It was composed of nine senior government officials, from as many departments and agencies of government, who brought to their task a wide variety of experience in different areas of public administration. The committee was asked by the Prime Minister—I am quoting now it is important that members of the Committee should bear this in mind—"to make preparations for the introduction into the public service of an appropriate form of collective bargaining and arbitration, and to examine the need for reforms in the systems of classification and pay applying to civil servants and prevailing rate employees."

We were assisted in our work by what I regard as an unusually able and experienced group of staff officers, who were drawn not only from government departments but from the private sector. The committee also consulted, from time to time, with recognized experts in labour relations and employee classification, from industry and from the universities. If you would permit me, Mr. Chairman, I would like to pay a tribute not only to those civil servants who

provided the principal staff for this preparatory committee, but also to those who we brought in from outside and who made great contributions over this period of two years.

The procedure which we followed in the discharge of our responsibilities may be summarized in this way:

- (1) a comprehensive program of research relating to developments in employer-employee relations and employee classification in the private sector and in public services in Canada and other countries; (2) continuing consultations with employee organizations throughout the course of our deliberations;

Here again, our consultations was a very warm and gratifying experience. Not only did we receive, in a semi-formal way, the employee organizations with interests in the public service, but we were able to maintain a continuing conversation with them as our own studies proceeded. I do not mean to imply by that, Mr. Chairman, that any of the employee organizations most of whom you have now heard, have any responsibility for the recommendations of the preparatory committee's report. It is quite clear, no doubt, from what some of them have said that there is disagreement with what we recommended. Unfortunately for you, Mr. Chairman, their disagreements do not coincide.

- (3) the identification of modern problems, major problems, followed by a careful search for alternative courses of action. (4) the formulation of tentative conclusions and their evaluation through discussion with representatives of employee organizations, with public service officials on the management side and with outside experts; (5) the determination of our recommendations and the preparation of our report submitted to the Prime Minister, I think in July of last year, and tabled immediately in parliament.

Most of the employee organizations that represent employees in the public service presented briefs to the preparatory committee, setting forth their views on the type of legislation that, in their judgment, should govern the collective bargaining relationship. Most of them met with us and our advisors on many occasions for discussion of difficult points. This consultative process quickly revealed the very different views held by the various employee organizations of the kind of system which would be appropriate for the public service. It was soon apparent that no one approach would satisfy all the organizations concerned, and that, consequently, our recommendations would have to stand or fall on their own merits, as these might be demonstrable to the government and, eventually, to this committee and to parliament.

It is, perhaps, in the nature of things that each of the employee organizations that made representations to the preparatory committee, sought to preserve or enhance its traditional position vis-a-vis the employer, and to add to the rights and privileges it already enjoyed, the authority to deal with the employer in a collective bargaining relationship. I am not saying this by way of criticism; this is a very natural posture for them to adopt before us. However, there was, as you might expect, some concern in the preparatory committee about the effect that any new system of employer-employee relations might have on the future of these organizations, and here again is a point, I think, of

great importance for your committee to appreciate. The structures and the constitutional characteristics of these various employee organizations had been determined in a relationship in which bargaining units, majority representation and exclusive jurisdiction—which are the fundamental components of any genuine system of collective bargaining—played no part whatever. And this is very important. For many years the Treasury Board, the Civil Service Commission and representatives of departmental management had listened to and consulted with any employee organization that appeared to represent a substantial group employees. Although a few public service staff associations operated within clearly defined and uncontested jurisdictions and were alone in their field—for example the postal associations—the three service-wide associations—that is the Civil Service Federation, the Civil Service Association and the Professional Institute—had, in many circumstances, organized and represented the same classes of employees. While the service-wide associations and the departmental affiliations of the Civil Service Federation had achieved a kind of formal recognition from the government through membership in the National Joint Council—I think many members of the committee will be familiar with that body established during the war; they were referred to in some circles as the “recognized associations”. It is important to remember that the National Joint Council had no control and no authority in the essential matters which we are talking about now, terms and conditions of employment—and that recognition did not grant any exclusive rights to represent particular groups of employees.

In the processes of pay determination the service-wide staff associations had, for many years, made representations to the commission and the Treasury Board—you will remember the annual hoop-la that went on—on behalf of any and all classes of employees with little regard for the number of employees in any particular class which organizations were able to count as members.

Although at the departmental level the service-wide associations made representations on behalf of their members, with a similar disregard for the extent of membership among the employees concerned, in some departments, departmentally based associations which had been able to organize a substantial majority of employees in the departments concerned, secured a privileged position in relation to matters within the jurisdiction of departmental management—and that was, and is still, a very restricted area. Conversely, these same associations were seldom directly involved in the process of pay determination at the centre.

The preparatory committee concluded very early in its deliberations that, notwithstanding its concern that traditional organizational patterns of the associations might restrict their capacity to secure bargaining rights in a system based on bargaining units, majority representation and excluded jurisdiction such considerations must not be permitted to divert us from our primary objective. During the course of our studies and consultation with the existing associations, although we tried, indeed, to steer between these two horns of the dilemma, of having consideration for those organizations of employees which existed and which had discharged very important obligations on behalf of their

members, and the new situation with which we were confronted, where their form, structure and organization really could not be expected to be appropriate. The creation of a structure of employer-employee relationships that, having due regard to the special responsibilities of a national public service, would conform as far as possible to the norms of labour relations law and practice in Canada; this was our objective.

I think I might, Mr. Chairman, state succinctly our objectives, and I think the best way to do this is to quote from the report of the preparatory committee:

- (1) to recommend a system which should permit agents of the employer and representatives of designated groups of employees to discuss rates of pay and conditions of employment, at regular intervals, with a view to reaching agreements that are binding on both parties for a specified period of time.
- (2) that the system should make available for use at the initiation of either party under prescribed conditions, machinery for the arbitration of issues on which agreement cannot be reached in negotiation.

The committee will recall that arbitration was in our terms of reference.

- (3) the system should provide for the prompt implementation and effective administration of agreements reached and arbitration awards rendered.
- (4) the system should have the capacity over time to adapt to changes in the character of the service and in the requirements and forms of organization of employees.
- (5) subject to such qualifications as may be necessary to protect the public interest and the sovereignty of parliament, of course, it should adhere as closely as possible to the principles and processes already established by law to govern relations between employers and employees.

That is the end of the quotation from the preparatory committee's report.

The system of collective bargaining recommended by the preparatory committee, as it turned out, was neither destructive nor protective of the existing patterns of employee organization in the public service. Our recommendations, which are reflected in the provisions of Bill No. 170, before you provided no basis for a distinct and separate employer-employee relationship at the departmental level—and this is a point which caused us a good deal of difficulty both with the members of the preparatory committee and the existing associations, because this was a traditional means of organization—nor, on the other hand, did these recommendations provide in any way for employee organizations to secure rights in the system except as exclusive agents for a defined group of employees, which is essential to the operation of any system. The effect of our recommendations, though not their intention, was to put a good deal of pressure on almost all of the associations to adjust to the demands of the proposed system, so that they would be in a better position to secure bargaining rights by the process which we recommended be laid down in the law.

• (11.00 a.m.)

It can also be said, I think, that the system we recommended placed no roadblocks in the way of any employee organization that might wish to secure the right to bargain for employees in the public service, provided the organization was able to meet the same kind of tests that employee organizations are normally required to meet, as a condition of certification in the outside world, if that is an appropriate expression.

I am, of course, aware that this Joint Committee of the House of Commons and the Senate, was not established to review the report of the preparatory committee, which is now merely an historical document. Nevertheless, since a number of the more important issues in the proposed legislation are issues which arise out of recommendations of the preparatory committee, it would, I think, be helpful to your deliberations if I were to review some of the arguments which influenced our thinking on certain of the more contentious areas.

One of the most important aspects of the report was our endorsement of a merit system—now I pause there for emphasis—and the historic role of the Civil Service Commission as the guardian of the merit system. From this conclusion derived directly the proposal to leave outside the bargaining relationship and outside the scope of arbitration, a number of matters that in the private sector may be dealt with at the bargaining table and incorporated in collective agreements. This is a very essential distinction, if I may say so, Mr. Chairman, to be made between the system which we recommend and the normal situation outside the private sector. We believe there are good reasons for this distinction and I shall now give the principles of our line of argument.

This decision to maintain the Civil Service Commission, to maintain the merit system, as far as appointments were concerned, was taken notwithstanding a parallel conclusion that the authority of the commission in such essential matters as pay, hours of work, leave and holidays, should be transferred to Treasury Board and be bargainable. Our position was not dictated by any sentimental attachment to the Civil Service Commission, despite my historic attachment to that organization, but, I believe, by an objective and careful analysis of the alternative courses of action and their probable consequences. We really tried very hard to look at this objectively and coldly and see what the alternatives were to retaining the merit system and retaining, in the statutory right of the Civil Service Commission, the appointments, and what flowed from appointments under the new system.

In our analysis of this problem we noted two fundamental differences in appointment and promotion between the private and the public sectors. First we noted and endorsed the widely held view that the employees of a national public service should be broadly representative of the entire community and that Canadian citizens, wherever they live, should have equal right of access to employment in their public service. Mr. Chairman, we have all made speeches about this and this is like motherhood, no one can be against this as a proposition. We also noted that these considerations did not ordinarily apply to either employees or employers in the private sector.

Secondly, we noted, as a unique characteristic of the public service, that those who discharged the highest executive responsibilities of the employer, were elected to office in part by the employees themselves, and, in part, by persons who might wish to become their employees. These two considerations were paramount considerations in the creation of a Civil Service Commission of Canada in 1908, and the assignment to the Commission of responsibility—

Mr. LEWIS: What people were elected to office?

Mr. HEENEY: I am speaking of the ultimate executive authority being in the Cabinet and the relationship of Parliament to the Cabinet and the right of every Canadian, who is an elector, in another aspect to be a contender for appointment by the Civil Service Commission on the basis of his merit. This was the argument that was made in 1908, when the Civil Service Commission was set up and it was the principle which obtained when the 1918 statute was enacted.

The question which faced the preparatory committee was: Do these considerations cease to have relevance upon the introduction of collective bargaining? This, I think, Mr. Chairman, with respect is the question your Committee must answer in relation to its decision on whether or not the merit system and the retention of the power of appointment in the commission is to be retained or not.

We concluded that these propositions did not cease to have relevance. We concluded that although both employees and the government, as the employer, did have an interest in these matters, it was a third party, the Canadian community as a whole, whose interest was paramount. On the basis of our analysis of the patterns of collective bargaining elsewhere, we were not persuaded that the parties in bargaining could always be depended upon to preserve the public interest in these two vital areas—I am now talking about appointments primarily. We therefore recommended that a Civil Service Commission responsible to Parliament and independent of both the government of the day and of employee organizations, should continue to regulate the entry of Canadian citizens to their public service and to establish and control the standards by which public servants would be promoted, demoted or released.

Another important recommendation of the preparatory committee, which is reflected in the provisions of your Bill No. C-170, is that relating to limitations on the authority of the Public Service Staff Relations Board, limitations on the board to determine bargaining units during the first two years after bargaining rights become available to employees. This has been the subject of criticism and it is only after very deep study, if I may say so, and reflection, that we came to the conclusion that there was no alternative, no orderly alternative, no viable alternative to what has been criticized as a statutory proposal to provide by statute, the bargaining units. I am going to say more about this.

In its report the preparatory committee said this: "The history and existing pattern of employee representation was such as to make it inevitable that bargaining units based on a variety of conflicting principles would be proposed by organizations seeking certification. All kinds of principles would be involved here. The existing classification system, lacking order and a clearcut set of underlying principles,"—and this is another story which you all know a good

deal about—"the sheer size and organizational complexity of the service would add its own complications." I am tempted to stop there and parenthesize, but I will resist the temptation. "In the absence of statutory guidelines, the board could find itself faced with a prolonged period of controversy and litigation and the result could be a patchwork of bargaining units offering little hope of a stable and productive set of relationships and serving in the long run to introduce serious inequities in the rates of pay and conditions of employment."

There has been much criticism of the recommendation to limit the authority of the Public Service Staff Relations Board which, as you know, is the principal body proposed in Bill No. C-170—much criticism of the recommendation to limit the board's authority in this area, during the initial period of collective bargaining—and it is only for the initial period that predetermination is proposed—and to require that all bargaining units be consistent with occupational groups.

Mr. Chairman, I am sure all members of the Committee will recognize that the occupational group is the best which we propose. It was the only test that seemed to us to result in any sensible kind of regime at all.

● (11.10 a.m.)

Identified in the reform system of employee classification was this occupational criterion. But the fact is, that no viable alternative has yet been advanced. As far as I know, Mr. Chairman, not one of those who have criticized this proposition as being inconsistent with the philosophy of collective bargaining have advanced a proposition which, by any practical test, could be called viable. To thrust the responsibility to determine bargaining units, at the beginning, on this new public service staff relations board,—and without statutory direction—of any kind, is not, in my judgment, a viable alternative. Surely no labour relations board in the history of labour relations in Canada has ever been faced with such a confusion of conflicting demands as would, in that circumstance, confront the Public Service Staff Relations Board. With only the precedents of the private sector to guide it, the board would inevitably be caught in a cross fire of demands from hundreds, perhaps even thousands, of local employee organizations, seeking the right to represent a narrow occupational group in a particular locality or establishment. The employee organizations that have so long represented the interest of employees in the public service would almost certainly be torn asunder by geographic and other jurisdictional disputes. Such a road would lead, not to collective bargaining, but to chaos. I am emphatic on this, Mr. Chairman; this is the united opinion of the preparatory committee, right or wrong, and these are the reasons for it.

The proposals of the preparatory committee for bargaining units directly related to the occupational grouping of the reformed system of classification were designed to provide public service employees with the fullest measure of collective bargaining rights as soon as possible after the passage of the legislation with a minimum of disruption to existing patterns of employee representation. Although some adjustments in the parameters of bargaining units will undoubtedly be necessary after these limitations on the board's authority are removed—I mean the limitations in time—I am as convinced now

as I was when we sent our report to the Prime Minister that this is a reasonable approach to the introduction of collective bargaining in the civil service.

Another issue of great importance to this committee, Mr. Chairman, and to the Canadian public, is the manner by which disputes are to be settled in the public service. It was not within the terms of reference of the preparatory committee to debate this question, except with respect to the mechanisms by which disputes might be arbitrated. As I reminded the committee at the opening of my remarks, our mandate was to devise a system of collective bargaining and arbitration. Our recommendations in this regard were influenced by our familiarity with the arbitration mechanisms of the British Public Service—I suppose it is the experience of Britain, with which we were most familiar, which has been the largest single influence in giving the flavour to our recommendations—and by the record of the successful resolution of disputes on the whole which the British Tribunal has built up over a period of more than 40 years. The lack of precedents in our own country for the resolution by arbitration of disputes of interest in jurisdictions of comparable size and complexity—and the lack is pretty evident—made it necessary to look beyond Canadian experience for appropriate models. Both the Australian and the British Public Service experience in arbitration was carefully reviewed.

Our expert advisors and those employee organizations who had been calling for third-party arbitration of disputes in the public service for years and years favoured the mechanisms of the British tribunal. This was the traditional position which was pressed in season and out by the largest of the employee organizations in the service. The preparatory committee ultimately concurred in this view and in its recommendation proposed arbitration machinery and procedures that in all essential characteristics conformed to the British model, although I will make a distinction in a few moments to that proposition.

Mr. Chairman, before concluding I think that I should make some reference to the fact that the preparatory committee considered it necessary to recommend the enactment of a new statute to provide for the regulation of employer-employee relations in the public service, rather than proposing, as some have suggested—and I think Mr. Chairman continues to suggest before your committee—the application to the public service of the Industrial Relations and Disputes Investigation Act. As a matter of record, Mr. Chairman, we in the preparatory committee did, in fact, consider this possibility very carefully indeed.

The difficulties that we felt would have to be overcome if that course were to be followed, are too numerous to deal with in detail at this time, although no doubt you, Mr. Chairman, and members of the committee will be doing so. I will, therefore, limit my observations to one or two of the major problems that we encountered, and one or two of the other difficulties that we found would have to be dealt with in any system that provided public servants with the right to strike, whether under the I.R.D.I. Act or by another provision.

Once more I remind you that the mandate of the preparatory committee was "...to make preparations for a system of collective bargaining *and arbitration.*" If we had concluded that employer-employee relations in the

public service should be regulated by the I.R.D.I. Act then the first thing that we would have had to do, having regard to our terms of reference, would be to recommend the inclusion of a section in that act which would provide for binding arbitration of public service disputes in contradistinction to those in the private sector.

I think perhaps at this point I should add, parenthetically, that if our mandate had not stipulated arbitration—and now I am speaking personally and not for the whole committee—there is little doubt in my mind that the demand of the large majority of organized employees in the public service for binding arbitration and the larger and more evident protection which that method—that is, arbitration—of resolving disputes would provide for essential public services, would, almost certainly in my judgment, have led the preparatory committee to propose provision in the Industrial Relations and Disputes Investigation Act itself for the arbitration of public service disputes. That is purely a personal opinion, but I think that even had there not been this limitation on our terms of reference, from the course of our discussions and studies, that we would have made a recommendation along that line. But as I say, it is parenthetical and said on my own responsibility only.

Our conclusion, to which I referred earlier, that the merit system should be preserved, and that it should continue to be administered by the Civil Service Commission, would likewise have called for special provision in the I.R.D.I. Act. Clearly, this would have had to be looked after. Now we already have three pretty important changes in the I.R.D.I. Act which would have to be dealt with.

Turning now to the kinds of problems that would have to be taken care of if the right to strike provided under the I.R.D.I. Act were to be made applicable to public servants, the precise implications to that situation can be seen by looking at the bill before you, where alternative courses would be made available.

I would note particularly the problem of ensuring the continuity of public services, not essential public services but services where the public safety and security is involved. This again, Mr. Chairman, is a distinction which I am sure you will be making in the committee. Some such provision would certainly be required in the I.R.D.I. Act if the public service were to be brought under it. The problem also arises as to who should discharge the responsibility for the regulation of conciliation procedures which, as you are aware, under the I.R.D.I. Act resides in the Minister of Labour. Are you going to have the Minister of Labour making these determinations when the Minister of Labour is in effect the employer? Surely not. It will therefore be necessary where the employees of the public service were concerned to assign this responsibility to some other party, and our solution to this is a board in a separate statute. I hope I have made my point clear. You have a different situation, and many of those who, in perfectly good faith, have suggested that the public service be simply moved over into the existing law—"Who needs this big, new complex legislation?"—have not really, I think, understood this point because if you are going to give the employer the kind of authority that the Minister of Labour has in relation to the Canada Labour Relations Board, you produce a situation which, if I were an officer of an employee organization, I would not be willing to tolerate.

I would also note, in relation to my earlier remarks about the determination of bargaining units, that under the I.R.D.I. Act the Canada Labour Relations Board would, unless some changes were made again in that regard, be obliged to respond to the initiative of individual employee organizations in the determination of bargaining units, and would presumably—that is, the board—be guided in these matters by their own conventions and industrial precedents, many of which it seemed to us are not applicable.

● (11.20 a.m.)

Now these examples by no means exhaust the problems that are inherent in the proposal to bring the public service under the existing federal labour law. However, they do provide, I think, a clear indication of why we concluded that it would be unwise to encumber the I.R.D.I. Act with provisions that have no relevance and no application to the private sector, and why it seemed to us the better part of wisdom to continue to deal with employer-employee relations, and other matters involving the internal administrative processes of the public service, with legislation designed specifically to meet the requirements of the public service.

Finally, a short comment on the complexity of the legislation that we proposed and the even more complex character of Bill No. C-170, which is before you. I am sensitive on this point and I think I can say—and other members of the preparatory committee will bear me out—that when we started our work, no one was more anxious than I, and my colleagues shared this view, to produce a simple proposition. When we first met to assess the nature of our task, and to establish our objectives, we solemnly concluded—and we have this down in our minutes—that the statutory expression of the system, whatever its characteristics, should be short, flexible and a model of simplicity.

Mr. Chairman, we instructed our staff in very categorical terms, that only proposals leading to this kind of legislation—as I have described as short simple and flexible—would have any chance of getting support from the preparatory committee.

At intervals, as our proposed legislation began to take shape, we expressed concern at the way in which the matters with which we were obliged to deal, were being compounded. Frankly, however, we did not succeed in identifying many matters, that, on reflection, we thought could be disregarded in the statute. More and more we found that we were in uncharted seas and without giving to the Public Service Staff Relations Board almost a blank page and a freedom which we thought in principle for the public service it should not possess, we decided in many instances to make a statutory provision.

So much for our good intentions. I am bound to say this in further defence. The model bill which we included in our report contained 88 clauses. The only possible way in which it might be regarded as short and simple, is by comparison with the bill that is now before you, that contains 116 clauses. The president of the Treasury Board, in a statement that he made at the commencement of your proceedings, had some remarks to make in defence of the complexity of his bill, and I am happy to leave the defence of the bill to the

Minister in this particular instance, seeking only to share with you the dilemma that we seem to face in this regard as we move through the different areas of examination.

On many occasions when we attempted to simplify our approach to one or another area of the proposed legislation, we seemed to place in jeopardy a fundamental right of one party or the other, rights which we were often forced to conclude, deserve protection in the statute. This is the most important of the considerations which led to what many may regard, Mr. Chairman, as a kind of plethora of provisions. In many circumstances the only real alternative to a statutory provision, was the assignment of additional discretionary authority to the Public Service Staff Relations Board or its Chairman, and already the bill has been a great deal criticized on grounds that there is too much authority and discretion given to the board or its chairman. We went as far in this direction as we thought desirable, which was in the view of quite a number of people, a good deal too far.

It is obvious from my remarks that I make no attempt to refute the contention that the legislation we recommended was indeed complex. "Was", because I am speaking of the 88 clause model bill. I can only offer for your guidance in this matter a personal conclusion, that the regulation of employer-employee relations, especially in a public service, is a difficult and complex business. I venture to think, if it is not impertinent of me to say so, that your deliberations, Mr. Chairman, in this Committee, may well lead you to a conclusion not too far off that which I have just stated as being that of the preparatory committee.

I am really very close to the end, Mr. Chairman. The recommendations of the preparatory committee were seen by its members as imaginative and even bold and radical proposals for a modernization in one critically important part of the administrative process of the Public Service of Canada. I would like to give emphasis to this. We do not feel that we have produced a reactionary document. We feel that we have produced a document which deserves a place in the progress of the Public Service of Canada, which is progressive and which does introduce, or would introduce, if accepted, a new relationship between the government as employer and its employees, which would be healthy, consistent with the principles of the outside sector and in every way constructive and advantageous to the employees. Notwithstanding imperfections in matters of detail, and no doubt in some matters of substance, which may be attributed to our report, it remains, I believe, in its basic characteristics, a workable blueprint for the regulation of organized human relations in an especially sensitive and difficult area of our society.

Like the preparatory committee when it had the responsibility, this Joint Committee of the House of Commons and the Senate, now finds itself the beneficiary of a great deal of excellent, if sometimes conflicting advice. You will, no doubt, take into account, as we tried to do, not only the contending views presented to you, and the various special points of view and interests which inevitably exist, but also those of the larger Canadian community which is deeply and directly involved in the legislation which is before you.

All members of the Public Service of Canada, whether employees or representatives of the employer on the management side—all members of the

Public Service—are eagerly following the deliberations of this Committee in the confident hope that you will strengthen and improve these measures and, because we have so long been suspended between the past and the future, that you will be able to proceed with all deliberate speed to your conclusions and recommendations to Parliament.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Heeney. I think this is a very useful contribution you have presented this morning.

Mr. CHATTERTON: I did not hear the difference between the British tribunal system and your proposal.

Mr. HEENEY: The difference really is in the paragraphs about complexity of legislation. The principles are the same and I would stand by that simple statement. But they, in a British fashion open to them and as a result of a process which has grown over the years, have been able to do with very little in the way of legislation. Indeed their whole system is based upon an agreement between a government and the organized employees. I do not want to go into the other distinctions now, Mr. Chairman, but our principle is the same; we found for the reasons that I attempted to give, that it was necessary for us to define in law, many of the things that have been developed by precedent in Britain because we were trying to do at one fell swoop what in Britain has been built up over 40 years.

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Heeney, have you any copies of this brief?

Mr. HEENEY: No, Mr. Chairman, I am afraid I have not, but there will be very shortly.

The JOINT-CHAIRMAN (*Mr. Richard*): It would be very useful for members of this Committee to have copies of this brief as soon as possible, to help us in our deliberations and in our questioning next week. I understand Mr. Heeney will be available before we start the examination of the bill itself. Is that agreeable to the Committee?

Some hon. MEMBERS: Agreed.

Mr. LEWIS: There will be no questions this morning?

The JOINT-CHAIRMAN (*Mr. Richard*): No, because I think we should wait until we are through with the other briefs.

Mr. CHATTERTON: Will we have copies of the brief before the next minutes are published?

The JOINT-CHAIRMAN (*Mr. Richard*): I hope so. Yes, we will have copies of the brief within the next day or so.

Mr. HEENEY: We can have them by tomorrow morning.

● (11.30 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Heeney.

We have with us the chairman of the Civil Service Commission, Mr. Carson.

Mr. BELL (*Carleton*): Mr. Chairman, I see Mr. Carson's colleagues here also. Could they not have a place of honour at the head table. We always feel better when we have Miss Addison at the table.

The JOINT-CHAIRMAN (*Mr. Richard*): I would be very happy if the other two members of the Commission were to accompany Mr. Carson to the table.

Mr. J. J. Carson (**Chairman, Civil Service Commission**): Thank you, Mr. Chairman. Thank you, Mr. Bell.

The JOINT-CHAIRMAN (*Mr. Richard*): I think they should be identified.

Mr. CARSON: This is Miss Addison, Mr. Chairman, and Mr. Sylvain Cloutier. Mr. Chairman, could I direct the committee's attention to Bill No. C-181, an entirely separate piece of legislation from the one that Mr. Heeney has spoken about so admirably this morning; in his remarks he has really set the stage for the reasons that there had to be a Bill No. C-181 as a companion piece to the bill providing for collective bargaining in the public service.

Bill No. C-181, the proposed Public Service Employment Act, will permit the achievement of several important objectives which, in the view of the Commission, are most important in the efficient conduct of the nation's public business. During the next few minutes I should like to review these objectives and comment on their implications for personnel administration in the service at large.

The first major objective that would be served by the proposed bill is the reaffirmation of the merit principle as embodied in previous legislation, and the extension of its application to certain groups of employees that are now exempt from the provisions of the present Civil Service Act. The traditional and proven philosophy of appointment and promotion on the basis of merit is fundamental to Bill No. C-181, and the security of this policy is again assured by the explicitly stated authority of the Commission for appointment of persons to the Public Service.

Bill No. C-181 makes possible the achievement of another important objective. It provides the necessary statutory framework and inspiration for the development and maintenance through changing circumstances of an effective and efficient staffing agency, which is what the Commission sets out to perform. The labour market in which we operate is characterized today by intensive competition, increasing specialization and above all rapid change. The methods used to supply the human resources for Canada's largest employer must be adapted to the characteristics of the milieu in which they are applied. They must be efficient and devoid of red tape; they must be simple and capable of application by a variety of public servants; finally, they must result in equitable and fair decisions. We feel that the proposed bill that is before you makes all this possible.

Thirdly, the legislation has to take into account a new dimension:—the proposed system of collective bargaining for public servants. It is expected that organized employees will negotiate with their employer to arrive at mutually satisfactory conditions of employment and pay. This is a situation that precludes the participation of a third body independent of the organized employees and of the employer, at least at the outset of their negotiations. Bill No. C-181 accommodates the requirements of collective bargaining in that it relieves the

commission of its traditional responsibility for recommending rates of pay and certain conditions of employment. Furthermore, Bill No. C-181 removes matters of discipline from the jurisdiction of the commission so that these can properly be the subject of debate and discussion between the employer and employee representatives.

Mr. Chairman, I should now like to talk briefly about some of the implications of the objectives I have mentioned for personnel administration in the public service.

Bill No. C-181 makes possible the extension of the commission's jurisdiction to groups of employees that are now exempt from the provisions of the Civil Service Act. The net effect of this change will be a far greater sense of unity within the public service. As you know, we have had classified civil servants working alongside prevailing rate employees and other exempt employees with different conditions of employment, different rates of pay and different methods of appointment. I think this has been an entirely unsatisfactory and unfair situation. I would like to underline that the objective, however, is not greater uniformity or rigidity within the public service, as it might tend to be if the present act were extended. The proposed legislation will establish fundamental principles and guidelines rather than specifying the various circumstances in which exceptional procedures may be used, thereby imposing limitations upon the appointment of the best talent available.

Under the proposed Public Service Employment Act, all departments and agencies will enjoy certain freedom of action in staffing matters with a view to facilitating efficient and effective operations in an age characterized by rapid change. And yet at the same time a greater number of employees will benefit from the basic guarantees of fair-play and equity inherent in the bill.

Specifically, Bill No. C-181 allows the commission to delegate any of its powers, functions and duties, except the hearing of appeals—and I think this is a very fundamental safeguard that remains with the commission. This, in fact, is the basis of the desired flexibility of operation that I mentioned earlier. The current administrative reforms in other areas of the public service are based on a new concept of management. Inherent in that concept is the conviction that well-motivated and competent men and women can make decisions reflecting the best interests of the service—more accurately the public interest—if they are encouraged to make these decisions and if they are held accountable. This new concept permeates our whole approach to personnel administration in the service. Moreover, it must commence with personnel administration if the broader administrative reforms aimed at decentralization are to succeed. It is the intention that deputy heads and their officers should have delegated authority for making appointments to and within the public service. They would, of course, have delegated authority for the processes leading up to appointments, namely recruitment and selection. The commission intends to maintain centralized staffing operations for a number of groups of employees whose occupations are common to all departments and closely related to the management functions. This will be the case with personnel and financial administrators along with executive personnel. Depending upon prevailing conditions of the labour market and the nature of the demand of the public

service for certain specialized and professional classes of employees, the commission will also retain centralized staffing operations for such classes in order to ensure their most effective deployment throughout the various departments.

In the support groups, however, where there are roughly 75 per cent of the public service, the ability of the commission to delegate its authority will have a marked effect in that it will greatly reduce the time involved in making appointments, particularly at the regional and local levels.

● (11.40 a.m.)

Mr. Chairman, delegation of the Commission's authority, if this bill secures your support and that of Parliament, will not be achieved overnight. First, deputy heads must be willing to accept the delegation. Second, the Commission must be satisfied that the departments have the necessary competency to make appropriate decisions in accordance with the provisions of the act and to administer efficiently the processes of recruitment and selection. In this respect, the Commission's training and development resources are being augmented. Intensive training courses for personnel administrators have now been going on for two years. The result has been, and continues to be, the upgrading of departmental personnel resources. In general administrative courses, the Commission is stressing the new responsibility of administrators for personnel management and their skills in this area are daily being developed. Third, delegation of the Commission's authority, particularly as it relates to processes of selection, must rest on the existence and availability of well-defined and periodically revised standards of selection for the various occupational groups and levels within them. These standards are now in the process of being developed.

Mr. Chairman, I would like to assure you and the members of your Committee that delegation of authority by the Commission does not mean abandonment of responsibility. The bill clearly holds the Commission responsible for appointments, whether made by its own staff or by departmental officials, and explicitly requires the Commission to report annually to Parliament on the discharge of this responsibility. To this end, the Commission will expand its monitoring system along the following lines:

First, there will be a systematic analysis of the results of all staffing appeals to identify and isolate any cases of misinterpretation or misuse of selection standards by Commission or departmental officers.

Second, there will be a periodic statistical analysis of the distribution of employees by occupation and level to identify shifts that may be attributable to the improper application of standards.

Third, there will be a systematic spot-checking or post audit of individual cases selected at random in each occupation and level to ensure that the provisions of the act and regulations are being met by officials holding delegated authority; and fourth, there will be a periodic review of staffing processes in the Commission's own organization and in departments to develop increasing competence of staffing officers in the application of the Commission's selection standards.

In this connection, it must be remembered that for a good many years the Commission's staffing functions have been decentralized in part to its own field

officers across Canada, and in recent years there has been considerable delegation of the selection function to certain departments. While there have been minor problems, the Commission is confident that it has continued to fulfil its responsibility for preserving the merit principle, even under the limited delegation which has existed to date. The possibility of further delegation envisaged by this bill is, in our view, a natural extension demanded by the growth in size and complexity of the service; it does not present any insurmountable obstacles to the maintenance of a fair and consistent application of the merit principle in the staffing process.

Finally, Mr. Chairman, and still with respect to the delegation of the Commission's authority, we will not hesitate to rescind or modify the extent of delegation in any given case if there is evidence to support such a decision. Nor will the Commission hesitate to report to parliament and identify to parliament those persons who have abused their delegated authority under this act.

I should now like to say a word about the use of other processes of selection, which are referred to and provided for in the act. This is another essential requirement for a modern and efficient staffing agency. Bill No. C-181 requires that the Commission make appointments based on selection according to merit and gives the Commission discretion as to the use of competitions or other processes of selection. The important point here is that whatever processes of selection are used they must be consistent and defensible with the merit principle, but at the same time they must be capable of adaptation to changing circumstances if we are going to maintain any degree of efficiency and effectiveness in staffing this complicated service that we have today.

My colleagues and I do not see any conflict here. Efficiency and merit need not be inconsistent with each other, and to the extent that we have tried out alternative methods of selection, continuous appraisal, executive search and other devices of selection that are consistent with the merit principle. We are satisfied that we have plenty of safeguards to be able to defend alternatives to the normal and historic competition process.

Sir, there is another element of Bill C-181 that I would like to mention and that is provision of authority to the Commission for the making of regulations. Under the present Civil Service Act, regulations have been rightly and logically made by the governor in council, as they often deal with matters that have direct financial implications for all or large sectors of the civil service. Under the proposed legislation all matters having significant financial implications will be transferred to the Treasury Board. Consequently, the commission would be limited to making regulations for their own subject matter, namely, the making of appointments in accordance with merit and directly related issues.

Before closing, Mr. Chairman, I should like to mention briefly that the Commission began a detailed study of its operation and the statute that governs it at the time of the publication of the report of the Preparatory Committee on Collective Bargaining in the Civil Service to which Mr. Heeney just referred. There was a need to remove from the jurisdiction of the commission, all matters that would be directly or indirectly the subject of bargaining. This along with the requirements to adapt personnel operations to present day conditions, about which I have spoken earlier, clearly indicated that an entirely new piece of legislation was needed. Amendments or modifications to the old

Civil Service Act in our opinion would not prove workable. In the process of developing our recommendations to the government, we consulted with deputy heads in all the departments and all of the employee organizations. The comments and criticisms from these sources were extremely useful and Bill No. C-181 reflects the majority of their proposals. The comments of the employee organizations made before this Committee have also been of great interest to us. Mr. Chairman, when the Committee is considering the bill clause by clause we will be happy to make further suggestions to you.

The **JOINT-CHAIRMAN** (*Mr. Richard*): Thank you very much, Mr. Carson and thank you Miss Addison and Mr. Cloutier for being with us. We will have the opportunity of hearing you and questioning you in the near future.

The next witness this morning is Dr. Davidson of the Treasury Board.

I suppose at this time it might be well to tell the committee the reflection I was just making that it would be a good thing for me, in any event, and maybe for other members of the Committee, to get the Heeney Report and to read it.

Mr. HEENEY: I am sorry I gave that impression.

The **JOINT-CHAIRMAN** (*Mr. Richard*): I do not want to get into a discussion.

Mr. George F. Davidson (*Secretary, Treasury Board*): Mr. Chairman, members of the joint Committee, my task this morning is in terms of the relative importance of the three pieces of legislation that have been referred to the Committee, a relatively simple one. It is not my intention to go over again the various matters that have been covered in the presentations of Mr. Heeney and Mr. Carson, in the reviews that they have made of the issues contained in Bill No. C-170 or in Bill No. C-181. My task is rather to direct your attention to the third companion piece of legislation, Bill No. C-182. I propose, therefore, for the purpose of this presentation this morning, to assume that we are at the point in time when the two bills that you have already had under discussion suitably amended where necessary, have been enacted by parliament. I am making that assumption, and I am asking that we now turn our attention to the problem of the legislation and the machinery that will be required and that will make it possible for the government to act in its capacity as an employer rather than in its capacity as a government, in the effective discharge of the duties, authorities, and responsibilities which fall upon it, in its role as employer, as a consequence of these enactments.

I would draw your attention, Mr. Chairman, to one interesting, and I think, significant point in reference to the two bills that you have had under discussion thus far this morning. It is a fact that the two bills referred to, reviewed by Mr. Heeney and Mr. Carson, Bill No. C-170 and Bill No. C-181 contain in themselves little or no reference to the role and function of the Treasury Board. In fact, if you look at Bill No. C-181 which is the Public Service Employment bill, there is not a single reference to the Treasury Board in that piece of legislation. In Bill No. C-170, the Public Service Staff Relations bill, the expression Treasury Board appears in a number of places; but each one of these places is by way of an incidental reference to the Treasury Board,—a rather passing and insignificant reference to the Treasury Board,—with the possible exception of section 55, where reference is made to the authority being given by that section

to the minister who presides over the Treasury Board to enter into a collective agreement on behalf of the Treasury Board with the approval of the governor in council.

● (11.50 a.m.)

Now, I make this point for the following reason. It seems clear to me, in the absence of any elaboration in Bill C-170 or Bill C-181 of the role of the agency designated by the government as the representative of the employer, that if the Treasury Board is to be established as the instrumentality of the government, with the authority that is required in order to enable it to assume and discharge the responsibilities in the fields of personnel management and collective bargaining which are normally the prerogative and the responsibility of the employer in the non-governmental sphere,—if the board is to be given that role and that responsibility, then it must be done by legislative enactment other than, and supplementary to, the provisions of the two bills that you have already discussed this morning.

The fact is that the board does not have the authority under existing laws to assume and discharge all of these responsibilities. The fact is also that it cannot assume them without the specific legal authorization to do so. That in essence, Mr. Chairman, ladies and gentlemen, is the explanation of the need for legislation such as that which is contained in Bill No. C-182 an act to amend the Financial Administration Act to which my further remarks this morning will be directed.

May I, in this connection, refresh the memories of the Committee members by quoting two brief paragraphs from the statement that Mr. Benson made to the Committee on June 28, 1966, in which he summed up, in concise fashion, the purposes and the rationale of the provisions contained in Bill. No. C-182.

The effect of the proposed Public Service Employment Act and the proposed amendments to the Financial Administration Act, taken together, provide for the consolidation and concentration in the Treasury Board, as the representative of the employer in most of the public service of authority relating to such matters as classification, pay, hours of work and leave, which are now regulated by the Civil Service Act and, in one way or another, by the combined authority of the commission and the board. A patchwork quilt of minor authorities, related to terms and conditions of employment which have been granted by many statutes to a variety of departments would, under the proposed amendments to the Financial Administration Act, be brought within the authority of the Treasury Board. This consolidated authority for the determination of terms and conditions of employment, which under Bill No. C-182 would be vested in the board, would be exercised subject to the provisions of Bill No. C-170, that is to say, in a collective bargaining relationship wherever employees had met the requirements for certification and had been incorporated in bargaining units.

The Treasury Board's role as employer embraces and includes the familiar employer role of departments, and it may be expected that in its discharge of these more comprehensive responsibilities the board will

establish to a considerable degree the kind of "general manager" relationship to departments in matters of administration which was envisaged in the Glassco Report.

That is the end of the quotation, Mr. Chairman. You will note that at two points in that quotation reference is made to the fact that what is involved here is essentially a consolidation of authorities vested by existing legislative enactments in a number of different agencies throughout the public service. These authorities are at present, in some cases, vested in the Treasury Board itself, and in other cases under existing law in the Civil Service Commission; in still other cases they are vested in individual ministers, in boards and agencies, and in departments. It is against this background, Mr. Chairman, that I would like now to turn to provisions of the bill before this Committee.

The bill consists of 18 clauses, and its purpose is essentially to empower the Treasury Board,—which I would remind the members of the Committee is a committee of ministers, headed by the president of the Treasury Board established under the newly enacted Government Organization Act,—to act for the governor in council in all matters relating to personnel management, financial management, general administrative policy, the organization of the public service, and the determination and control of establishments as well as a number of other subject matter areas that are more particularly set out in the subparagraphs of the first amending clause.

What this clause of the bill does essentially is, as Mr. Benson made clear in his original statement to the Committee, to consolidate in the Treasury Board authorities which are now dispersed rather widely through a number of agencies throughout the service. It concentrates these authorities in a designated agency, the Treasury Board which, under the provisions of the Financial Administration Act is given authority to act for the Queen's Privy Council of Canada, but which under the provisions of the Government Organization Act continues to be subject to the overriding veto, or the final decision of the governor in council, on any matter on which the Treasury Board has taken an initial decision.

If you look at Bill No. C-182, you will find that most of the amendments in this bill do not, at least in my opinion, need to detain the Committee very long at this point. There are 18 clauses in the bill, but from clause 4 on, the provisions of the bill are in almost every instance essentially procedural changes that are consequent upon the separation of the Treasury Board from the Department of Finance that has been provided for and authorized by parliament in the Government Organization Act. The need for these changes from clause 4 on, results from the enactment of the Government Organization Act and the separation of the Treasury Board from the Department of Finance. As a consequence of this, there is a need to distinguish between those responsibilities and functions which are to remain with the Minister of Finance, and the Department of Finance, on the one hand, and those which are to be transferred to the President of the Treasury Board and to the new Department of the Treasury Board on the other. Clauses 4 to 18 of Bill No. C-182, deal almost entirely with this problem. I suggest, Mr. Chairman, that we can safely set aside these clauses which relate in effect to the separation of these two

departments and deal with them at a later stage in the committee, if it is the wish of the members that we do so. At this stage I shall concentrate my further remarks on the provisions of the Financial Administration Act amendments which are germane to the questions of personnel management, and to the preparations for collective bargaining in the public service which are the subject matter of the two other bills that we are discussing this morning. If that is agreed, Mr. Chairman, I would like then to turn your attention to the following considerations.

● (12 noon)

In the past, as members of this Committee well know, the Treasury Board has had considerable authority, derived indirectly from the authority vested in the governor in council, in matters relating to the field of personnel policy. This authority that has been vested indirectly in the Treasury Board has been, however, a rather uneven patchwork of separate authorities, affected in some degree by other authorizations given to a variety of different departments and agencies. Some of these other authorities have remained with the governor in council; others were vested through the existing and earlier versions of the Civil Service Act in the Civil Service Commission; other authorities were vested directly in the hands of individual ministers and still other authorities were vested in boards and agencies which in varying degrees have enjoyed a quasi-independent status in so far as certain aspects of personnel policy and administration are concerned.

The Treasury Board's ability, therefore, to act as the representative of the employer in all matters affecting the total mass of the public service, some 200,000 employees who will not be under what the act refers to as separate employers, has been uneven and uncertain; it has not had the ability in certain areas, or in respect of certain groups of employees to discharge all of the responsibilities which it will be its duty to discharge in a collective bargaining relationship. It will not be firmly established as possessing this ability until the authorities that have been dispersed in the numerous directions which I have referred to are by the provisions of this bill concentrated for the first time and consolidated in the hands of a single agency recognized by the government as the chosen instrument for the conduct of the employers' relationship with the employees in the collective bargaining context.

I can elaborate on this by pointing out for example the difference between the authorities and the responsibilities now resting in the hands of the Treasury Board in so far as the civil service proper is concerned, and the authorities that rest with the Treasury Board in so far as certain groups of exempt employees are concerned. With respect to the civil service proper, the Treasury Board as a result of existing provisions in the Civil Service Act and elsewhere, has the authority to establish rates of pay and to determine other conditions of employment on the basis of recommendations made by the Civil Service Commission. But this is a divided function at the present time as between the commission and the board. The commission has the right to initiate and to recommend with respect to rates of pay but has not the right to make any decision. The Treasury Board has the authority to make the decision but has no authority to initiate and is obligated in all circumstances to act only upon the receipt of recommendations from the Civil Service Commission. In fact, prior to

the 1961 amendments to the Civil Service Act, the situation was even more clearcut in the separation of the relative responsibilities and roles of these two agencies, in that, until the amendments of 1961 were enacted, the Treasury Board could only accept or reject any recommendations of the Civil Service Commission in the field of pay. It could not in any way amend those recommendations.

I give this illustration in order to indicate the extent to which there is a divided responsibility in this field which, as long as it remains, would make it difficult for an employer's designated agent to represent effectively at the bargaining table the employer's responsibilities and to enter into agreements that could effectively be carried out. It is necessary in the judgment of those of us who have worked on this legislation to consolidate effectively the responsibility of the employer in the hands of one agency, so that one agency will be in a position to carry out the responsibilities which the collective agreements which it negotiates place upon it.

In contrast to the situation with respect to the civil service proper, so far as prevailing rate employees and other groups of employees not covered at the present time by the Civil Service Act are concerned, the Treasury Board has here the full authority to establish directly both rates of pay and policies with respect to other conditions of employment. So far as employees lying outside the scope of the Civil Service Act are concerned the position of the board is, therefore, unimpaired with respect to its ability to discharge the obligations falling on the employer in the collective bargaining context.

It is necessary to reconcile these two positions and to ensure that the board has the effective authority which the legislation and the accompanying administrative arrangements envisage for the board in carrying out its employer's role in the collective bargaining relationship. Consequently, although the board has had in the past considerable authority in these fields, either acting in its own right or acting on behalf of the governor in council, there is at this point in time, with the advent of collective bargaining, a need for a clear definition in statute law of the responsibilities and the authority of the Treasury Board, if it is to effectively discharge the role which is being placed on its shoulders as the central management agency for the public service both in the personnel management and in the collective bargaining context.

This central management role of the Treasury Board that is envisaged in this legislation covers areas such as financial management and administrative improvement that go beyond the personnel management or the collective bargaining fields. I propose to leave those aside for later discussion; if it is the wish of the members of the Committee at a later stage to examine the proposals contained in this legislation that would establish the role of the Treasury Board as the central management authority in the fields of financial management and the field of administrative improvement, I would be glad to make myself available, Mr. Chairman, to go into those questions with the Committee at that time. But concentrating for this morning on the position of the Treasury Board with respect to this legislation, in so far as it relates to the field of personnel management, it seems to me self-evident that in the establishment of an effective instrumentality to act in the capacity of the employers' representatives with ability to carry out the obligations which result from the negotiation of

collective agreements, we must ensure, through the enactment of proper legislation that we place in the hands of the Treasury Board as the chosen instrument of the government the necessary powers to carry out whatever obligations it may undertake to assume.

The importance of vesting this clear and unequivocal authority in a single employer's representative can hardly be exaggerated. It is difficult to see how one could have an effective regime of collective bargaining in the public service unless somebody, some authority, some agency, whether it be the Treasury Board or some other designated instrumentality of the government, has the authority to represent the employer at the bargaining table, to make commitments and to enter into agreements on behalf of the employer and to ensure the carrying out of those agreements and arbitral awards.

The obligation resting upon the Treasury Board to carry out these agreements will extend not only to the obligations resting upon the central authority itself but also to the measures which are necessary to ensure that the departments and separate agencies of government, in so far as they have a responsibility to carry out obligations that are set out in the collective agreements or arbitral awards, are placed in a position where they have not only the authority but also the staff and other means to carry them out.

● (12.10 p.m.)

As I said, Mr. Chairman, there are really only three clauses of the Bill No. C-182 which is now before us which need to concern the Committee in so far as the relationship of this legislation to the other two bills are concerned. In fact, from the point of view of the joint Committee I suspect that the most important part of Bill No. C-182 is clause 3 which describes in both general and also in specific terms the authority in the field of personnel management that the Treasury Board will be obliged to assume and which it will be enabled to exercise subject to the terms of any collective agreement or arbitral award. In this connection, I would like to make reference to a comment that was made at the time of the second reading of the bill when attention was directed to the opening words of section three, amending section 7 of the existing Act which, if I may be permitted to read, Mr. Chairman, are as follows:

"Subject to the provisions of any enactment respecting the powers and functions of a separate employer but notwithstanding any other provision contained in any enactment, the Treasury Board may, in the exercise of its responsibilities in relation to personnel management in the public service and without limiting the generality of sections 5 and 6"—take action in a whole range of fields.

The wording of this opening portion of this section of the amending bill was criticized in the debate on second reading, as I recall Mr. Chairman, on the grounds that it seemed to provide that the Treasury Board could exercise its responsibilities under this legislation, notwithstanding any other provision contained in any enactment. It was suggested at the time of the debate that this appeared to give the Treasury Board the authority to set aside and to disregard completely the provisions of Bill No. C-170 relating to collective bargaining in

the public service. We have had the legal officers of the Crown examine this proposition, Mr. Chairman, and I can only say to the Committee as a non-legally qualified person that, first of all, it was clearly never the intention of any members of the Preparatory Committee or of those who drafted this legislation, to include a provision containing such an interpretation in the legislation. It is clearly not the intention to try to give to the Treasury Board authority in this particular section that will enable it to set aside or disregard the provisions of the important collective bargaining legislation which is contained in Bill No. C-170. I can only report to the Committee at this stage that in the view of the law officers of the crown, the wording that I have referred to does not have that meaning in effect, is not subject to that interpretation. I will ask the members to accept this statement at the moment and to return to it at some later stage when we get to a clause by clause discussion of the bill, if there is need for further examination on this particular point. I am not qualified to argue the legal points beyond stating that in the first place it was never the intention, I can assure the Committee, that any such interpretation should be applicable to this provision and, secondly, it is the view of the law officers of the crown that the provision is not subject to this interpretation.

Mr. LEWIS: Could you give us a short summary of the reasons for that view?

Mr. DAVIDSON: Mr. Chairman, I am sure Mr. Lewis will understand my position. I am not competent to give the detailed reasoning which is the basis for the opinion of the law officers in this regard. It is, of course, open to the members of the Committee at a later stage, when we get to a clause by clause discussion of the bill, to call upon the law officers of the crown and to obtain their evidence directly on this point. I am afraid I would only confuse the issue further if I tried to give a detailed explanation as suggested by Mr. Lewis. But I did want to give unqualified assurance to the members of the Committee as to the intent of the provision and as to our concern which led us, on the conclusion of the discussion on second reading, to take this back to the law officers and assure ourselves, on the basis of their judgment, that the interpretation which was suggested as being applicable here, was not, in fact, applicable.

Going on from that point, Mr. Chairman, and dealing further with the provisions of clause 3 of the amending bill, I emphasize the point that the provisions of this enactment do not extend the authority of the Treasury Board beyond the authority which is vested in the Governor in Council itself. What the provisions of this bill in fact accomplish or are designed to accomplish is a concentration in the hands of the Treasury Board in order to enable it to discharge its collective bargaining responsibilities, of the authorities which, under a variety of enactments, is now vested or rests in a number of agencies of the government. Under the provisions of this clause, therefore, the Treasury Board would be authorized, first of all, to determine the manpower requirements of the public service, sub-clause (a); secondly to establish policies and programmes with respect to the training and utilization of manpower in the service, clause (b); thirdly, to establish classification standards and a classification structure for the public service, clause (c); fourthly,—and here we come to the heart of the collective bargaining function—to establish rates of pay, hours

of work, leave, standards of discipline and so on. I pause here to make the point again that it would obviously be incongruous, to say the least, for two pieces of legislation to be presented simultaneously, one in the form of collective bargaining legislation, purporting to establish collective bargaining as a viable regime in the public service and another, at the same time, in complete contradiction to the first, which would give to the Treasury Board the authority, without regard to the collective bargaining bill to determine and regulate the pay to which persons employed in the public service are entitled for services rendered. I assure the members of the committee that such is not the intent or the purpose,—nor I believe the effect,—of this clause in Bill C-182. Our legal officers tell us that it is understood that this provision in Bill C-182 is subject, in areas where collective bargaining is in effect, to the provisions of the collective bargaining legislation.

I go on then, Mr. Chairman, to list the further authorities that are concentrated in the hands of the Treasury Board in this important section. The section refers next to standards of discipline. Clause (f) of the bill provides that the Treasury Board shall have the authority to prescribe standards of discipline that will be applicable and will be applied throughout the public service.

Finally, of the important issues that are set out here as being authorities vested in the Treasury Board, we have the authority also of the Treasury Board to establish standards governing physical working conditions, occupational health and safety, as well as other conditions of employment. There are a number of other provisions which are either already vested in the Treasury Board or which, by the provisions of this amending bill will henceforth be vested in the Treasury Board. I think however that I have given the most important ones for purposes of our discussion this morning.

Having vested and concentrated these various authorities in the personnel management field in the Treasury Board,—subject, where applicable, to the provisions of the collective bargaining legislation and to the provisions of the agreements that will arise as a result of that collective bargaining legislation,—sub-section two of clause 3 of the bill proceeds to do with respect to the Treasury Board's powers in relation to departments what the new provisions of the Public Service Employment Bill do in the civil service context. Sub-section 2 provides authority for the delegation to department heads and to heads of agencies of such portions of the centralized authority that the Treasury Board has acquired under sub-section 1 as, in the light of administrative experience, seems to be desirable and appropriate. It follows, I think, logically that with a service as far-flung and as widely decentralized both geographically and functionally as is the public service of Canada, it would not be a workable proposition to concentrate the actual implementation of all the detailed personnel management authorities or of all the detailed authorities for the administration of the employer's responsibilities in the collective bargaining field, to a central agency. Therefore, while the authority must be vested in a central agency if there is to be orderly collective bargaining, the provisions of sub-section 2 of section 3 provide the circumstances under which Treasury Board may delegate to the departmental and agency heads such portions of the responsibilities vested in the Treasury Board as seem to be appropriate in the circumstances. There are safeguards provided in the legislation by which this delegation of authority will

be regulated. Treasury Board itself establishes, first of all, the standards under which this authority will be delegated; secondly, the provision in the collective bargaining legislation for the processing of grievances provides a means by which an individual employee, through his properly authorized employee organization, may grieve against any improper use of the delegated authority as it appears to the aggrieved person; and thirdly, as in the case of the Public Service Employment Bill the Treasury Board, by this legislation, is given the right to withdraw the delegated authority if improper use is made of it in circumstances which seem to dictate such drastic action.

● (12.20 p.m.)

These then, Mr. Chairman, are the two essential provisions of the relevant clauses of the amending bill that we have before us. There is the provision, first of all, for the concentration of a considerable number of authorities in the personnel management field in the hands of the Treasury Board in order to enable it to discharge effectively the responsibilities which will be resting on the shoulders of the employer's representatives when we get into the era of collective bargaining. Without that concentration of authority the employee organizations and their representatives will not know, will not have any clear picture, as to where they should turn for the settlement of the matters which they believe require effective collective negotiations between themselves and their employer's representatives. With this concentration there will be no doubt in anyone's mind as to where the responsibility for meeting the obligations of the employer rests in the future. The second feature, having concentrated that authority in the Treasury Board, will be the administrative delegation of authority to enable effective decentralization of the actions that will necessarily arise in the administration of these collective agreements. The responsibility for that effective discharge of the employer's obligations under collective agreements will remain with the Treasury Board, but the operating responsibility will, for purposes of administrative convenience, be subject to such delegation to departments and agencies as seems, in the circumstances, to be appropriate.

I would like to conclude my remarks, Mr. Chairman, having given the essence, of the provisions in the bill itself by giving a brief explanation of how the Treasury Board is preparing itself to discharge the responsibilities which, by this legislation, will be vested in it.

We have had in the Treasury Board for a good many years a unit known as the personnel policy branch. This unit will, of course, have to be very considerably strengthened and enlarged if it is to be enabled to carry out the obligations which fall upon it as the result of this legislation. The personnel policy branch, headed by Mr. Love, the assistant secretary, is being organized now in five separate divisions: a planning and co-ordination division; a manpower planning division; a compensation and conditions division; a classification division in anticipation of the transfer of this function to the Treasury Board and, for purposes of our discussion this morning—and perhaps most immediately significant of all—a staff relations division. In this division will be vested the responsibility, so far as the staff is concerned under the direction of the ministers on Treasury Board, to carry out the employer's role at the bargaining table in the negotiation and conclusion of agreements and in the administration,

either directly or through authority delegated to the departments and agencies, of the obligations of the employer under these agreements. We have begun to assemble a staff for this staff relations division. We are in the process now of establishing task forces corresponding to each of the thirteen occupational groups in the operational category since this will be the first category under the collective bargaining timetable to qualify for collective bargaining. These task forces, corresponding to the occupational groups that will be the bargaining units if the collective bargaining legislation goes through as contemplated, include not only personnel drawn from the Treasury Board staff itself, but also experienced members of the departments most directly concerned with the problems of this or that particular occupational group in the operational category. To illustrate, in respect of the printing trades group, which was the subject of some representations this morning, the task force established or being established will comprise members of the Treasury Board staff and members of the printing bureau management team. This task force will direct its attention particularly to the problems which may arise in the collective bargaining context when we sit down at the bargaining table with representatives of the printing trades occupational group in the operational category.

We hope that, as soon as parliament has passed this troika of legislation and as soon as the public service staff relations board has completed the essential process of certification of bargaining units and bargaining agents, the Treasury Board, for its part, will not be laggard in demonstrating its ability to discharge the responsibilities which this legislation will place upon the government as employer, upon the Treasury Board as the designated agency of government and upon the staff members of the Treasury Board who, in their own way, will have to do their part to ensure that this legislation becomes the success that we all devoutly hope it will become.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Dr. Davidson.

Mr. WALKER: Obviously, there will be some employees of the Civil Service Commission whose work is now being transferred to the Treasury Board. Do these people move over?

Dr. DAVIDSON: There is a considerable exchange of personnel, even in ordinary times, between the commission and the departments and the Treasury Board. We have been trying to recruit the personnel that we will require for the staff relations branch and for other branches from whatever sources we can; but it would be short sighted of us to deprive the Civil Service Commission of the strength of staff in the places where they may need it most, and we are trying to work out an orderly procedure for the transfer of staff as and when the responsibilities are transferred over to us.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Dr. Davidson.

After consultation with the members of the Committee, our next meeting will be on Monday. I do not know what time would suit members best. I had in mind 10 o'clock but some members think we should not start until 11 o'clock. Would anyone care to express a view.

Mr. WALKER: I have just one comment. I think that two hours is a good length for a session. Maybe some of the other members are mentally brighter

than I am, but I get a little dull by the end of 3 hours. I think if we should hold our sessions down to—

The JOINT CHAIRMAN (*Mr. Richard*): We do not want you to get dull progressively.

Mr. WALKER: —a maximum of 2½ hours.

The JOINT CHAIRMAN (*Mr. Richard*): Would the members be agreeable to come at 10 o'clock?

An hon. MEMBER: Make it 10.30.

The JOINT CHAIRMAN (*Mr. Richard*): It will be 10.30. The Confederation of National Trade Unions will be before us on Monday, with their brief. After their brief is presented they will make themselves available for questions. Then, we revert to the Professional Institute and all the others for questioning. The last brief will be presented on Monday and this will be followed by questioning.

Mr. LEWIS: Mr. Chairman, could you give the members the order in which the various organizations will be called back so that one may re-read their briefs, assuming one has read them already, and be prepared.

The JOINT CHAIRMAN (*Mr. Richard*): The secretary will send a list this afternoon to each one of the members.

Mr. KNOWLES: Will you continue to consult with the members of the steering committee as to the times the others come back.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps we should have a meeting of the steering committee Monday evening, if that is agreeable. I think, since we will have completed hearing briefs on Monday we should have a meeting because this will conclude the business that has been arranged by the steering committee, namely the reading of briefs. Thank you very much.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 9

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

LIBRARY

MONDAY, OCTOBER 17, 1966

NOV 8 1966

UNIVERSITY OF TORONTO

WITNESSES:

Messrs. Marcel Pepin, President, Robert Sauvé, Secretary General, Confederation of National Trade Unions; Mr. Raymond Parent, Vice-President, Provincial Confederation of Trades Unions of Quebec.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mrs. Quart,
Mr. Roebuck—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Caron,
Mr. Chatterton,
Mr. Chatwood
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Faulkner,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,

Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Orange,
Mr. Ricard,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDER OF REFERENCE

FRIDAY, October 14, 1966.

Ordered,—That the name of Mr. Chatwood be substituted for that of Mr. Hopkins on the Special Joint Committee on the Public Service of Canada.

Attest.

Léon-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

MONDAY, October 17, 1966.

(16)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.42 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Fergusson, O'Leary (*Antigonish-Guysborough*) (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Faulkner, Hymmen, Keays, Knowles, Lachance Lewis, Orange, Richard, Tardif, Walker (13).

In attendance: Messrs. Marcel Pepin, President, Robert Sauvé, Secretary General, Confederation of National Trade Unions; Mr. Raymond Parent, Vice-President, Provincial Confederation of Trade Unions of Quebec.

The Joint Chairmen invited the Confederation of National Trade Unions to present its brief. Part I of the brief was accepted as being read into the record. The representatives of CNTU were questioned on their brief at this same sitting of the Committee.

The CNTU undertook to supply the Committee with exact figures on the number of governmental employees represented by that Union.

The Committee was advised that copies of the Industrial Relations and Disputes Investigation Act would be distributed to the members.

At 12.30 p.m., the meeting was adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

● (10.40 a.m.)

MONDAY, October 17, 1966.

The CHAIRMAN: Order.

(Translation)

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we have a brief from the Confederation of National Trade Unions; Mr. Pepin, Mr. Sauvé and Mr. Parent, would you be good enough to come to the table, please. I think Mr. Sauvé is going to read the brief.

(English)

This is the brief of the Confederation of National Trade Unions which will be read by Mr. Sauvé, the Secretary, who is accompanied by Mr. Marcel Pepin, the President, and Mr. Parent.

(Translation)

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready, Mr. Sauvé?

Mr. SAUVÉ: Yes.

Mr. PEPIN: I would just like to say a few words by way of introduction, Mr. Chairman, before our Secretary General Mr. Sauvé, begins to read our brief, I would like to remind the members of the Committee of the existence of the CNTU. We thank you for the fact that you have been willing to recognize that existence as a very important trade union organization in the province of Quebec. It may be possible that certain members of this Committee have not heard too much about it, but I would remind them that the Confederation of National Trade Unions has about 200,000 members, including employees in the Federal and Provincial Public Services. The Confederation of National Trade Unions is represented in practically all sectors of industry and service activities, practically all activities where there are wage earning employees. There are also different large organizations, at the leadership level. I think that is what you call "middle management" among professional people and among many groups of wage and salary earners. The brief which you are going to hear this morning is of very great importance to us because depending on the decision of your Committee, and ultimately that of the House of Commons, it could have an influence on the rate of the development of relations between the Government and its employees for many years to come. We have very serious criticism to put before you regarding Bill C-170 and this criticism and these reservations are concerned with the establishment of orderly relations between the Government as employer, and its employees, and they are also concerned with establishing freedom of choice of the wage earner; even if he is a wage earner, we, in the Confederation, feel that the question of freedom of choice among wage earners is of very great importance, and if no attention is to be paid to it,

the day will come when we are faced with a totalitarian kind of trade unionism which will certainly not be to the benefit of the nation. I would remind you we have had much debate recently regarding so-called national unity for example in the CBC affair, and these problems are not just superficial problems for us, they are very real problems, and we have very considerable apprehension about the passage of Bill C-170 as it is at present worded, that it might lead to results similar to those we have had in such a case as I have just mentioned. And so, gentlemen, Messrs joint chairmen, and members of this Committee, we have prepared this brief and we hope that your Committee will make a thorough study of it. I now call upon the Secretary General to read the brief.

The JOINT CHAIRMAN (Mr. Richard): Mr. Keays?

Mr. KEAYS: Before you read the brief, could Mr. Pepin tell me how many of the employees in the Federal Public Service belong to the Confederation?

Mr. PEPIN: There are two groups. There is a group at the National Film Board. I have not the exact figures. It may be between 300 or 350, perhaps 400. There is another group at the Queen's Printer, and I have not the exact figure. There are no other groups apart from that. But we would still have something to say even if we had no affiliates. At the Queen's Printer, there may be 200 or 250 members, I am not sure. If I am wrong about these figures, I hope, at any rate, that they are more or less right.

Mr. SAUVÉ: Ladies and gentlemen...

Mr. ÉMARD: I am sorry to interrupt the reading but I have a question to ask. I will wait until afterwards.

Mr. SAUVÉ:

The parliament of Canada has been recently presented with a Bill (C-170) aimed at regulating labour relations in the public service. The Confederation of National Trade Unions (CNTU) feels it is its duty to intervene in the debate, mainly because of its mandate as a Canadian labour organization, and of its natural interest in all labour legislation. The some 200,000 workers it represents rely upon its vigilance to safeguard their rights and interests whenever these are directly or indirectly involved. The purpose of the CNTU's intervention is to emphasize before the federal legislators its objections and suggestions following a thorough study of Bill C-170. The CNTU also wishes to enlighten public opinion, and more particularly federal public servants, on the upsetting implications of the proposed legislation.

As a first general observation, the CNTU draws the attention of all concerned to a number of basic differences, which it finds rather puzzling, between the new legislation and the federal industrial relations act, principally as regards collective bargaining, conciliation and resort to strike. The CNTU is well aware of the existence of particular characteristics inherent in the public service, as well as differences between manufacturing industries and public services. It nevertheless remains—and we are going to illustrate this—that Bill C-170, while worded in the vocabulary of industrial relations, is firstly a compulsory

arbitration legislation, with a restricted field of action. It would seem that collective agreements will be more easily concluded with those described as "separate employers" than with the government itself.

The CNTU's brief is divided into three parts:

- I. A short history of the evolution of collective bargaining in Canada;
- II. Study and criticism of Bill C-170;
- III. Suggestions offered by the CNTU

—I—

A SHORT HISTORY OF THE EVOLUTION OF COLLECTIVE BARGAINING IN CANADA

This first part of the brief is a very schematic and simple retrospection of labour relations in Canada.

Industrial workers have won their right of association and their right to collective bargaining through strikes and imprisonment, and by bursting a number of obsolete legal structures. In Canada, it is in 1872 that the existence of labour unions was officially recognized by law (a precedent which followed a definite "fait accompli"), when amendments to the criminal code stipulated that a labour union was not a criminal coalition, and its aims, including the resort to strike, were not illegal from the sole fact that they could hinder the trade. This meant a reluctant recognition of trade-unionism by the State, but not by the employers.

As of that date, and until the start of the second World War (1939), apart from the odd resort to conciliation, collective bargaining was conducted, generally, according to the law of the jungle, that is, rule by strength. About 1925, and after that date, the right to collective bargaining was included in the text of various legislations, but remained on a voluntary basis. No obligation. A union could group almost the whole of the workers in a firm and yet not be recognized, while another one, without a single employee of an enterprise among its membership, could be recognized. For a long time, negotiations lead to some sort of gentlemen's agreements, until finally came the written collective agreement, binding on both parties, as it is known today.

At the beginning of the war, in 1939, salaries and other working conditions were governed, in Canada, by organizations set up under the provisions of the Emergency War Measures Act.

In 1944, following inquiries on the serious industrial unrest prevailing at the time, and to which a remedy had to be found, (federal McTague inquiry, 1943, and Quebec Prévost inquiry, 1943), new legislations were adopted in Ottawa (P.C. 1003) and in the provinces, which created the obligation for an employer to negotiate in good faith with the negotiating agent representing the majority of his employees in an appropriate unit. Then followed the requests for certification, issuing of union recognition certificates, negotiations and signature of collective labour agreements. These legislations, federal as well as provincial, were inspired from the American Wagner Act, in force since 1935. In Ottawa,

the wartime legislation (P.C. 1003 of February 1944) was replaced in 1948 by a peacetime industrial relations legislation, restricted to enterprises falling under federal jurisdiction. This legislation is still in force.

With the exception of Saskatchewan where, later, the industrial relations act has applied entirely to provincial public servants, and more recently Quebec where, with some restrictions, a special legislation on collective bargaining has applied to the public service of the province, all other provinces, as well as the federal government, have never accepted, as employers, to assume the same obligations as they have imposed, through legislation on industrial relations, on all employers in common enterprises falling under their respective jurisdictions. In Ottawa, in spite of the existence of several public servants' associations, the public service falls under a certain form of government regulation, that is, unilateral. What changes are intended to that situation which has already lasted too long? This is what a study of Bill C-170 will reveal.

- II -

STUDY AND CRITICISM OF BILL C-170
(federal public service)

1. *Collective bargaining*

Should Bill C-170 get royal assent, what would be the method of collective bargaining used in the federal public service? And when could the first negotiations begin? Leaving aside the secondary methods of application surrounding these subjects, the CNTU intends to study them in the light of the basic provisions of the bill. The texts are self-explanatory. We shall quote in the first place the definition of the collective agreement, article 2, paragraph (h):

Art. 2-(h) "collective agreement" means an agreement in writing entered into under this Act between the employer, on the one hand, and a bargaining agent, on the other hand, containing provisions respecting terms and conditions of employment and related matters;

Considered by itself, this definition could strictly be understood as extending to all matters which are generally found in a private enterprise collective agreement. But after reading other specific provisions of the bill, the restricted scope of that definition can easily be seen.

If we refer to the list of functions excluded from the bargaining units, it seems that a great number of federal public servants will not benefit from the advantages of collective labour agreements. The definition of "employee", "designated employee" and "person employed in a managerial capacity" leave the parties with little scope for discussion, and the Public Service Staff Relations Board with very little discretion. The federal industrial relations act is a lot more flexible on these questions.

Another restriction to collective bargaining lies in the fact that the general structure of bargaining units is set up in the Act, and the institution of occupational groups shall be decided on by the government.

With the exception of units negotiating with "separate employers" whose enterprises are restricted to one locality, it seems that all other units shall be considered as national units. The Minister of Revenue stated recently that there will be sixty-seven (67) of them in the whole of the public service sectors not falling under separate employers. The Minister has obviously sought inspiration from the Heeney report.

What does the Bill say on the subject, and what will be the mandate of the federal government when the legislation comes into force? In order to throw some light on the debate, we must quote here the definitions of "occupational category" and "occupational group", as well as the text of article 26:

Art. 2-(r) "occupational category" means any of the following categories of employees, namely,

- (i) scientific and professional,
- (ii) technical,
- (iii) administrative,
- (iv) administrative support, or
- (v) operational,

and any other occupationally-related category of employees specified and defined by the Governor in Council by any order made under sub-section (1) of section 26 or thereafter determined by the Board to be an occupational category;

(s) "occupational group" means a group of employees within an occupational category;

Art. 26 (1) Within thirty days after the coming into force of this Act, the Governor in Council shall, by order,

- (a) specify and define the several occupational categories in the Public Service, including the occupational categories enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service; and
 - (b) fix the day, not later than two years after the coming into force of this Act, on which the employees within each occupational category become eligible for collective bargaining.
- (2) At least sixty days before each day fixed under paragraph (b) of sub-section (1) on which the employees within an occupational category become eligible for collective bargaining, the Governor in Council shall, for all portions of the Public Service other than separate employers, specify and define the several occupational groups comprising that occupational category.
- (3) With respect to any portion of the Public Service other than a separate employer, the Board shall not consider as a unit of employees appropriate for collective bargaining any group of employees, other than those comprised in an occupational group and defined pursuant to subsection (2), until twenty-eight months have elapsed from the day fixed under paragraph (b) of sub-section (1) on which employees in the occupational category to which the employees in any proposed bargaining unit belong became eligible for collective bargaining.

In short, the main occupational categories are described in the Bill. Other occupational categories, and all occupational groups, shall be set up by decree of the Governor in Council, that is, by the federal cabinet. It is hard to see what will be left for collective bargaining in those fields. True, the Board's mandate gives it a theoretical control over occupational groups, and unions of federal public servants will no doubt be able to discuss specific cases, as well as to question for instance the exclusion of a function from a bargaining unit. This might provide some sort of consolation. The government will have arbitrated in advance all structures in the federal public service, with the exception of the groups of employees falling under the jurisdiction of separate employers.

Article 7 also tends to restrict seriously collective bargaining, mainly with regards to grouping and classifying positions in the public service. This will be seen at once after a quick glance at the text.

Art. 7 Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service, to group and classify positions therein and to assign duties to employees.

It is the opinion of the CNTU that the grouping and classification of positions should not be done unilaterally, but rather be the subject of standard negotiation. Furthermore, there is reason to wonder what resort will be left to the recently reclassified federal public servants, whose salaries have been "frozen" in red circles, as is the case for customs and excise agents, as well as administrative employees falling in the auxiliary groups.

One further point. "National units" shall not mean that the federal government is prepared to pay equal salaries for the same functions all across the country. The Minister of National Revenue, speaking for the government, has definitely ruled out such a proposition at the end of May before the Defence Committee of the House of Commons. If the unions of federal public servants intend to bring up this point, they will learn that such is not the government's policy, but that they may resort to arbitration (or conciliation). The arbitrator's mandate is provided for in the Bill (art. 68). The Arbitration Tribunal, when dealing with rates of pay, shall consider and have regard to

Art. 68 (b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant.

It is not likely that the conciliators' criteria will differ from those of the arbitrators.

The second paragraph of article 56 should also be mentioned in connection with collective bargaining. It reads as follows:

Art. 56 (2) No collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,

(a) the alteration or elimination of which or the establishment of which, as the case may be, would require or have the effect of requiring the

enactment or amendment of any legislation by Parliament, except for the purpose of appropriating moneys required for its implementation, or

- (b) that has been or may be, as the case may be, established pursuant to any Act specified in Schedule B.

It is obvious that such unprecise wording can greatly reduce the scope of collective labour agreements for federal public servants. Paragraph (b) above refers to Schedule B of the Bill, hence it forbids collective bargaining on subjects, among others, which have already been dealt with in the following legislations:

—Civil Service Act

—Government Employees Compensation Act

—Public Service Superannuation Act

We could quote more excerpts from the Bill, but the above should throw sufficient light on the restrictions imposed on federal public servants in their negotiations with the government; they also emphasize the extent to which the latter strays from the provisions of its own industrial relations act.

The CNTU now comes back to its question at the beginning of this second part of the brief: when could collective bargaining begin, should Bill C-170, with or without amendment, become a law?

We should first point out that this is not a legislation that would come into force on the day of its approval. Article 116 is very explicit on that point:

Art. 116 This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

There is no way of determining what will be this first delay imposed on the federal public servants. We hope it will be short, but also that the Bill will have gone first through a series of important amendments.

Article 26, already quoted, foreshadows a second delay. We repeat the following provision:

Art. 26 (. . .) the Governor in Council shall, by order,

- (b) fix the day, not later than two years after the coming into force of this Act, on which the employees within each occupational category become eligible for collective bargaining.

We should also quote, on this question, article 29 of the Bill:

Art. 29 No employee organization may apply to the Board for certification as bargaining agent for a bargaining unit prior to the date on which the employees comprised in the proposed bargaining unit became eligible for collective bargaining under sub-section (1) of section 26.

Certification

Independently from the very questionable method used by the federal government in the setting up of bargaining units, and on which we shall not comment at this point, one provision that should definitely be deleted from Bill C-170 is the obligation, for a union, to choose, before applying for certification, the method which it intends to follow in the

settlement of its disputes with the employer: arbitration or conciliation. Why should a union have to be placed before this kind of dilemma? The CNTU feels that this is a choice which is very hard to make before certification. No one knows at that time how the negotiations will progress. The following shows how the matter is dealt with in article 36 of the Bill:

Art. 36 (1) No employee organization shall be certified by the Board as a bargaining agent for any bargaining unit until the employee organization has specified, in such a manner as may be prescribed, which of either of the processes described in paragraph (w) of section 2 shall be the process for resolution of any dispute to which the employee organization may be a party if it is subsequently certified by the Board as bargaining agent for that bargaining unit.

At this time, we might say that the provisions dealing with arbitration and with conciliation would lead public servants towards arbitration. Then, they would have waived their right to strike. Besides, after studying the texts, the CNTU is not afraid to state that the conciliation procedure will not be satisfactory to the federal public servants, and the resort to strike will prove mostly illusive after a close look at the structures of bargaining units as meant by the government.

Arbitration and conciliation

The mandates of the arbitrators and conciliators should leave the federal public servants somewhat disturbed. The Bill leads them towards arbitration, and yet, if they take arbitration, it will probably be because they are choosing the lesser of two evils.

Paragraphs (1) and (3) of article 70 are particularly enlightening as to what an arbitral award should or should not deal with. The provisions read as follows:

Art. 70 (1) Subject to this section, an arbitral award may deal with rates of pay, hours of work, leave entitlement, standards of discipline and other terms and conditions of employment directly related thereto.

(3) No arbitral award shall deal with the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees, or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before the negotiating relationship between them was terminated.

We shall now quote article 68 to learn the criteria that should be used by arbitrators when rendering their awards. Paragraph (b) of this article has already been quoted.

Art. 68 In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute the Arbitration Tribunal shall consider and have regard to

(a) the needs of the Public Service for qualified employees;

- (b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant;
- (c) the need to maintain appropriate relationships in the conditions of employment as between different grade levels within an occupation and as between occupations in the Public Service;
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and
- (e) any other factor that to it appears to be relevant to the matter in dispute.

The least that can be said, after reading this, is that the government shows as much suspicion towards arbitrators than it had shown, in other texts, towards trade-unionism in the federal public service. In addition, it is to be noted that in defining the mandate of the arbitrators, the government has completely ignored the recommendations of the Freedman report.

As for the conciliators' mandate, it is, if we may say so, even more restrictive than that of the arbitrators. Article 83, and more particularly paragraphs (1) and (3) of article 86, are most revealing on the subject. Here is how they read:

Art. 83 Forthwith upon the establishment of a conciliation board, the Chairman shall deliver to the conciliation board a statement prepared by him setting forth the matters on which the board shall report its findings and recommendations to the Chairman, and the Chairman may, either before or after the report to him of its findings and recommendations, amend such statement by adding thereto or deleting therefrom any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement.

Art. 86-(1) A conciliation board shall, within fourteen days after the receipt by it of the statement referred to in section 83 or within such longer period as may be agreed upon by the parties or determined by the Chairman, report its findings and recommendations to the Chairman.

- (3) No report of a conciliation board shall contain any recommendation concerning the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees.

The right to strike

In principle, according to Bill C-170, a union which has chosen conciliation as the method for the settlement of its disputes with the employer, may resort to strike if the recommendations of a conciliation board are not satisfactory. This brings a first question: could a union

resort to strike on a question which does not fall under the competence of a conciliation board? There is reason to be doubtful. By the way we must point out here that a union may not bring itself its dispute before a conciliation board. The dispute must be submitted to the Chairman of the Public Service Staff Relations Board, who in turn refers to the conciliation board the questions on which recommendations may be made. Article 83 quoted above is very specific on that point. Since, on the other hand, the third paragraph of article 86 lists a few very important matters in the field of working conditions which escape the jurisdiction of a conciliation board, one wonders what subject of dispute could, after conciliation, warrant a resort to strike.

Let's say, however, for the sake of argument, that a union, with the support of its members, authorizes a strike. We are talking here of a certified union representing one of the 67 bargaining units mentioned by the Minister of National Revenue. At this point, one may assume that a number of these unions have chosen arbitration as a method for the settlement of their disputes, and others, conciliation. Units performing functions that are, to a certain extent, inter-dependent, may have chosen different methods of settlement. Hence the stopping of one unit may partially cripple the next one, or at least affect a number of its employees. These employees would then, unintentionally, participate in the strike. If such were the case, then the union having the right to strike could not use that right without openly breaking the law. Article 102 of the Bill is very explicit on that point.

Art. 102 No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel or procure the declaration or authorization of a strike of employees or the participation of employees in a strike, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 101.

Now who are these employees affected by article 101 who are not allowed to resort to strike or take part in it? They are employees

1. who are not included in a bargaining unit;
2. who belong to a unit for which the settlement of disputes is referred to arbitration;
3. who are "designated employees";
4. who belong to a unit where a collective agreement is in force;
5. who belong to a unit where no collective agreement is in force and there has not been a report from a conciliation board, if such a method is to apply.

The above may leave some doubts in mind. Then, the employer (either the government or a "separate employer") has a very effective and conclusive means for clearing up the whole thing, as is explained very ingenuously in paragraph one of article 103:

Art. 103-(1) When it is alleged by the employer that an employee organization has declared or authorized a strike of employees, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 101, the

employer may apply to the Board for a declaration that the strike is or would be unlawful and the Board may make such a declaration.

One would no doubt be wise to await the Board's declaration in order not to break the law. This is the advice given to all concerned in article 104:

Art. 104-(1) Every employee who contravenes section 101 is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

(2) Every officer or representative of an employee organization who contravenes section 102 is guilty of an offence and liable on summary conviction to a fine not exceeding \$300.

(3) Every employee organization that contravenes section 102 is guilty of an offence and liable on summary conviction to a fine not exceeding \$150 for each day that any strike declared or authorized by it in contravention of that section is or continues in effect.

It is true that no legal action can be taken without the consent of the Board, but there is reason to believe that the Board will support its own declaration.

The CNTU feels it is not exaggerating when it affirms that in Bill C-170, the resort to strike is purely illusive for those who will not have chosen arbitration as a method for the settlement of their disputes.

Union representation

The CNTU notes with complete astonishment that the public servant unions could not be represented on the Public Service Staff Relations Board nor on the Public Service Arbitration Tribunal. We are not aiming here at the functions of president or vice-president, but at membership in these organizations. We learn, in Bill C-170, that in order to represent organized public servants, one should not be a union member. Article 13 of the Bill states, among other things, the following:

Art. 13-(1) A person is not eligible to hold office as a member of the Board if

(c) he is a member or holds an office or employment under an employee organization that is a bargaining agent;

Members of the Public Service Arbitration Tribunal are appointed by the Board. The chairman of the Tribunal is appointed by the Governor in Council. As is the case for members of the Board representing the organized public servants, the members of the Arbitration Tribunal, appointed in the same right, are entitled to membership only if they do not belong to a union (Art. 61).

Before closing this part of its brief, the CNTU draws the attention of the competent authorities to the great number, the excessive number, of organizations and individuals who will supervise the Public Service, not only under the provisions of Bill C-170, but also keeping in mind all other organizations and individuals appointed under some other legislation. One may seriously wonder how the federal public servants will find their way in such a maze.

III

SUGGESTIONS OFFERED BY THE CNTU

1. The CNTU suggests that Bill C-170 be amended, for a large part in the spirit of the federal industrial relations act, in matters of collective bargaining, conciliation procedures and resort to strike. Thus the government would clearly show that it is willing to assume itself, as an employer, the same obligations which are imposed by the Canadian Parliament on employers whose enterprises fall under federal jurisdiction. It would by the same token show some trust in the federal public servants, who would certainly appreciate being treated as adults.

2. The CNTU is of the opinion that Bill C-170 shows an unacceptable preference for extremely rigid, and even totalitarian, union structures, and leaves in the background the right of association and freedom of union action. The bill appears to have originated from the concept that Canada is a unitary and homogeneous country. It seems that the government would tend to set up a system of so-called "national bargaining units", when such a system has never existed in our country. There are not even fifty such units across Canada, and those existing have been certified without any objection because the employees concerned have agreed, at the time, to have it done. This will not always be in the future, because freedom of union action includes the right, for the employees, to change their allegiance and give preference to efficient bargaining units, which does not mean necessarily "national units". The CNTU is only being realistic when it states that the very serious conflict existing at this time between, on the one hand, a number of obsolete and often empty structures, and on the other hand, the right of association and freedom of union action, could shake the very foundation of the Canadian confederation. It is therefore of the utmost importance that there should not be imposed by law unacceptable union structures, and that we should not restrict ourselves to a single type of bargaining unit. Such structures and units may prove discriminatory, and could constitute a flagrant violation of a well conceived freedom of union action.

3. The arbitration system can be justified during the period covered by a collective labour agreement. In all other cases, the CNTU feels that the resort to arbitration should be optional, and its scope should not be restricted as is the case with Bill C-170. It should be possible to submit to arbitration, if this is agreeable to both parties, any working or employment condition, when collective bargaining has not been successful, except perhaps in the case of the requirements for admission in the Public Service. The same should apply to matters dealt with in the recommendations of the Freedman report, when both parties cannot reach agreement, especially if the dispute arises from automation or technological questions which could not have been foreseen at the time of signature of a collective labour agreement.

4. The CNTU is of the opinion that public servant unions should be represented on the Public Service Staff Relations Board and the Public Service Arbitration Tribunal. Otherwise, the implication is that only non-organized people can deal objectively with matters such as working and employment conditions of the federal public servants. Finally, the

CNTU feels that all officers and members of the Board and the Tribunal should be bilingual, out of respect and consideration for the two nations which, nearly a century ago, have undertaken jointly the building of Canada.

5. In the CNTU's view, it should be clearly established that employees of "separate employers" are in no way connected with categories or groups falling directly under the Treasury Board in its capacity as negotiating agent for the federal government.

6. The second part of the present brief includes further suggestions on specific points which need not be repeated.

7. Finally, the CNTU has noted that a number of methods of application appearing in Bill C-170 should rather be included in regulations or rules of procedure. These are details that should be subject to change according to circumstances, without requiring amendment to the law itself. Such changes might be done through an order-in-council.

The CNTU's criticism of Bill C-170, in this brief, may seem harsh. This is because of its belief that, according to the Bill, a number of matters are arbitrated from the start by the government. Besides, it sets bargaining units where, for all practical purposes, the government will be the sole arbitrator. In too many cases, the final decision of the Board, as provided for in the Bill, can only hinder negotiations. Arbitration criteria are set by law, which leads to believe that these criteria represent the policy which the government intends to follow in the course of negotiations. Finally, the Bill is conceived in such a way that public servants must almost inevitably accept arbitration as the sole method for the settlement of disputes, and this choice must be made before certification. For these reasons, the CNTU feels that Bill C-170 is firstly a compulsory arbitration legislation, leaving little scope for collective bargaining, except perhaps in the case of "separate employers". Should it be adopted in its present form, this Bill could become, before very long, the strait-jacket of the federal Public Service.

CONFEDERATION OF NATIONAL TRADE UNIONS

Marcel Pepin,
président général.

Robert Sauvé,
secretary general.

Montreal, July 1966

The JOINT CHAIRMAN (*Sen. Bourget*): Thank you, Mr. Sauvé, for your very interesting brief. And as you can well understand, this brief falls into three distinct parts, first of all the historical background of collective bargaining, secondly, a critical study of Bill C-170 and three, the suggestions offered by the CNTU.

I wonder, if we are to have a question period, if we should not restrict our questions to the second part, because the first part is simply an account of the

evolution of collective bargaining and I think we should perhaps choose the various sub-sections on certification, conciliation, the right to strike and so forth under part two and then part three might also be taken.

(English)

I was just saying that the brief is divided into three parts. I do not think there will be many questions on the first part, the history of collective bargaining. The second and third parts are the most important. So as to have an orderly period of questioning, I wonder if the questions should be limited to the four or five subtitles of Part No. II and then on Part No. III which represents the suggestions that are made by the union. Is that agreeable to the members?

Mr. KNOWLES: Mr. Chairman, before we do that I wonder if some of us or one of you could ask for the kind of information we have asked from other bodies appearing before us, namely—

The JOINT CHAIRMAN (*Sen. Bourget*): If you have some more questions I think we could handle questions of a general character before we have studied the brief part by part.

Mr. HYMMEN: Mr. Chairman, in regard to Mr. Knowles question which was asked before, I thought the representative was a little vague. Surely he must be able to give more accurate information than the information which was given.

The JOINT CHAIRMAN (*Sen. Bourget*): I think you are right in your idea to permit a certain period for questions of a general character.

Mr. KNOWLES: Mr. Chairman, I am sorry that I was not here when the questions were asked. I have now been filled in as to the answers. I wonder if Mr. Sauve could give me a breakdown of the 200 members I understand he said they have at the Queen's Printer's establishment.

(Translation)

Mr. PEPIN: This trade union is a local union affiliated to the CNTU, has been affiliated for many years. I said it had about 200 members, but I was not entirely precise because I was not completely certain of the number. Now, it has been affiliated to us since the end of the forties, or the beginning of the 1950's.

Before that, I think the Queen's Printer was at Ottawa, subsequently it was rebuilt in Hull and our Local is still there. It has no right to collective bargaining but it has been consulted, I believe, when the law was amended providing that in cases of wage determination, there would be consultation with existing unions. I wonder if that answers Mr. Knowles' question adequately.

(English)

Mr. KNOWLES: I am interested in this figure of 200 which you say is not to be pinned down. Can you say how many of them are in the composition department? We had a figure from another union the other day—I am trying to get the total picture—or if not in the composition department, in what departments are they?

(Translation)

Mr. PEPIN: I am sorry I cannot give you the answer this morning. If you will allow me I will give you a written answer later. I do not have the figures for the composition department at the moment.

Mr. LEWIS: Does the union also include employees of other employers, such as *Le Droit*, or something like that?

Mr. PEPIN: No, it is a separate local.

(English)

Mr. KNOWLES: That will be satisfactory, Mr. Chairman, if Mr. Pepin will give us that information in writing later.

The JOINT CHAIRMAN (*Sen. Bourget*): Is that agreeable to all members? Are there any other questions of a general character?

Mr. WALKER: You are just speaking now of this one particular local. In the confederation do you represent other federal employees?

(Translation)

Mr. PEPIN: Yes, at the National Film Board, I think we have between 300 and 400 members. I, again, don't have the exact figures. If the members of the Committee are interested in having them, I will do the same thing as for Mr. Knowles' question; I will forward the answer in writing.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Is that agreeable? Are there any other questions of a general character?

Mr. HYMMEN: I have a general question. I do not know whether it comes under section II particularly but the question is raised by these gentlemen, and also by others regarding the comparison between the IRDIA legislation and private industry. I would like to ask Mr. Sauvé or Mr. Pepin how far do you think the analogy can be taken between the public service and private industry? Where does the public interest come into this, in their estimation?

(Translation)

Mr. PEPIN: There are certain differences between the public sector and the private sector, such as the industrial sector, among others. I think it would be inconceivable under present circumstances to negotiate or to be able to negotiate a clause of collective agreement which would provide for the closed shop where the Government would be forced to go through a union to recruit its members.

The Public Service, in its present state, could not accept such a conception in the way in which it is accepted in the private sector, for example for longshoremen or any other field of economic activity. But apart from that, I do think there are considerable similarities between the status of an employee who works with the Government and one who works for a private contractor, work on the same bridge or in the same workshop.

If you refer to the public interest, I understand that the federal Parliament, and the provincial Parliaments likewise, in similar situations, do have certain rights, so when we have the right to strike in the public service on

the same basis as the right to strike in private business, then, the authority of Parliament may be used, but if we want to have orderly relationships between the Government as employer and its employees, then, I think it is most unhealthy to consider the employees of the public sector as if they were not employees in the same way as people employed in the private sector. So, certain provisions of a collective agreement might be examined and accepted in a different manner, but regarding the position as we know it, both inside and outside the public service so far as everything else is concerned, people should be treated on the same basis both in the private and the public sectors. I do not know whether that answers your question.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Does that answer your question, Mr. Hymmen?

Mr. HYMMEN: That will do for now, thank you.

The JOINT CHAIRMAN (*Sen. Bourget*): Do you have another question on this? Do you have a supplementary question of this?

An hon. MEMBER: Not on that level.

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions of a general character because I think Mr. Hymmen's question related to Part II which has to do with study and criticism of Bill No. C-170.

Mr. WALKER: Mr. Chairman, I thought that we had not really started Part II as yet.

The JOINT CHAIRMAN (*Sen. Bourget*): No, but I was just saying that if there are—

Mr. WALKER: But if we keep the theme as we go into the—

The JOINT CHAIRMAN (*Sen. Bourget*): If we are through with questions of a general character, I think we should now look into Part II, study and criticism of Bill No. C-170 and starting with sub-title 1, collective bargaining. Are there any questions?

(Translation)

Mr. ÉMARD: It seems to me that the definition of "employee" is rather restrictive. It seems to me that there are many employees who might benefit from collective bargaining. I am referring to page 5, the last paragraph.

Mr. PEPIN: What are we criticizing here, Mr. Émard, is that the definitions leave very little latitude for discussion between the bodies, the kind of normal discussion in industrial relations when the parties can discuss who should be included or excluded. It leaves very little discretion to the Public Service Staff Relations Board because when we study the bill, in our opinion, it is up to the Governor-in-Council to decide who is going to benefit and who is not going to benefit from the collective labour agreements. This is the basis of our criticism. It seems to be the employer who is going to take the initiative in deciding which particular class of employees can be included and which cannot be. I feel that this is a function which ought to belong to the parties themselves or to the specialized body that is to say, the Public Service Staff Relations Board.

(English)

Mr. LEWIS: I have several questions I would like to ask Mr. Pepin. If Mr. Sauvé will forgive me, we will be bilingual when he answers my questions; he will answer in French.

I have, as my colleague suggests, a great deal of agreement with their criticisms of the way, in the early stages, of setting up this board. My first question is for a practical suggestion, if they have one, as to how this collective bargaining regime could start without the government designating the bargaining units. I would like to remind them, Mr. Chairman, that at the present time the scheme is that the government designates the bargaining units to start with. There are then two years in which organizations apply for certification, I suppose, presumably, either on the basis of the bargaining unit established by the government or on some other basis which they would present to the staff relations board. That means—and I want to explain my question, and I agree with it, Mr. Pepin and Mr. Sauvé—that essentially the government will be setting up the bargaining units and once they are set up all this talk about changing them later will be pretty meaningless. What is another way in which this law could be put into operation?

(Translation)

Mr. PEPIN: I feel the government takes two stands. First of all, it is going to wait for two years before we can come into the picture and be certified, and moreover, it is provided that the government will itself draw up the lists of professional categories—the sixty-seven categories which are provided for. They are not referred to in the bill, but in a speech of Mr. Benson. So the government leaves two ways open for itself. It says: "I am going to decide for sixty-seven groups and for two years I am going to wait until you are able to intervene".

Mr. LEWIS: Sixty-seven groups?

Mr. PEPIN: I am speaking of categories.

Mr. LEWIS: Groups, since there are more categories than that.

Mr. PEPIN: You are right. Sixty-seven groups and five great categories. It seems to me first of all that it should not be the Governor-in-Council who should decide what are the professional groups. It ought to belong to the Public Service Staff Relations Board. That is my first point. And secondly, as this happens every time there is new legislation. For example, just under Order-in-Council 1003 in time of war, there was a period of groping, if I may so say, affecting the application of the law. And likewise, in the federal code of 1948, when that was brought in, the fact that there was some experience under the wartime regulation meant there was less groping in the application of the federal code brought in the provincial field. When we had the Labour Code, it certainly took us some time before we could establish case law in the matter. And certainly under Bill C-170 or any other, the Staff Relations Board will be called upon to establish what are the units without the criteria being too loose in the bill, but subsequently there would be petitions presented by the associations, and in this way a body of precedents would be built up. What I am afraid of is this—and we have said it in our brief—if this bill is adopted as it is, we will have an organization which is already known in advance regarding the

organizations of the employers, so, to give you the most exact answer possible I would like the bill to be more flexible than it is at the present time. It should give more authority to the Staff Relations Board so that there can be a real effort made to discover, through that Board, what are those groups which are fit for negotiation with due respect for freedom of association. If I can speak on this a little further, when I refer to this idea of freedom of association, I of course do not want to say that every single individual, for example me, in the name of my own freedom, should be able to say I don't want to belong to this or that group. What I call a natural unit is, I try to bring together people who never meet one another, who cannot do it in the exercise of their normal duties; extreme example—it I live in Newfoundland and if another person lives in Vancouver, the chances of meeting one another are extremely remote, just because of distance. It is not a question of language here, but if we are going to associate with people we never see, it seems to me that the structure will be imposed by law but it will not correspond to a social fact, if you like, so to put it.

(English)

Mr. LEWIS: Well, Mr. Pepin, it is not entirely so. You could have, could you not, a national unit where the negotiations take place on a national basis and yet groups at various locations discussing their problems. Because what concerns me about your general proposal on this score—may I put it in the form of a question: Is it conceivable that the government of Canada should negotiate one agreement with the members of the Department of National Defence in Nova Scotia, giving them certain terms and conditions of labour, and certain salaries, and negotiate an entirely different agreement with the employees of the Department of National Defence doing the same work in Alberta, giving them different terms and conditions or higher or lower wages than you give the employees who do the same work in another part of Canada. Is that possible for a government?

(Translation)

Mr. PEPIN: I will attempt to answer. In the bill before us, the government tells us that this will be possible, and I refer to the particular section—

(English)

Mr. LEWIS: If I may interrupt you, that may be interpreted—I mean per se the law does not require these criteria. I think putting the criteria into the law is a mistake, and when the time comes I shall say so. I think it is unnecessary. I think whenever you put criteria into a law by implication you exclude other criteria which narrow the field of negotiation. But, I think, this particular criterion was put in not for the purpose that you are trying to make of it; I think it was put in for the purpose of saying to the conciliator or to the arbitrator that in arriving at one way across Canada, the differentials across Canada would be taken into account; that is, the differentials of private industry would be taken into account as they are on the railways and similar national union negotiations. I do not think it is there for the purpose that your people suggest, namely, that the government envisages different results in different parts of the country.

(Translation)

Mr. PEPIN: But I saw a nice way of illustrating the intentions of the government. I think the Minister of National Revenue has already stated—we refer to this on page eight,—to the National Defence Committee that the same salaries will not necessarily be paid for the same duties across the country. But I do share your opinion, Mr. Lewis, that it is desirable for wage rates and conditions of employment to be identical from one end of the country to the other. But that does not change the contention of association. There is not just one means of achieving the purpose. I can speak of other industries, in reference to what a member of the committee said just now. When there are several bargaining units in an industry and Canadian labour legislation is founded on the enterprise as a bargaining unit—take the paper industry where the rates in the Western region, Vancouver and environs, for reasons you know better than I do, are fixed at a certain figure. There are maybe seventy-five or a hundred different negotiations and the result, in other words, is the same. And the wage rates, I know very well what they are in Quebec. Ontario seems to proceed in a very similar way. We have several mills in Quebec and other unions negotiate for other companies, but may negotiate for the same companies but other mills. This does not mean to say that you get different wage rates from one mill to another, but it is quite possible for things to evolve in this way. A union may desire a certain wage but may wish for a certain means of proceeding in conciliation disputes, whereas another union is less interested because it does not have the same problems. It may just be a question of mentality. The bill seems to provide for the easiest solution itself; that is to say, you have one single unit across the country; there is no problem there. But a unit based on industrial relations cannot try to eliminate problems because this may be a much more difficult way of proceeding. A law must give freedom to the worker, the wage earner, to choose his union. I doubt very much that this is the kind of choice which is offered here.

(English)

Mr. LEWIS: Your example of the paper industry is a very good one, and I am sure you know the history that they have had. It took the union many, many decades—not merely many years, but many decades—to establish the kind of relationship among them that has created some kind of stability of conditions and wages across the industry, and even at that, they have not yet achieved it. But the point I want to suggest to you, with great respect, is that you are confusing two things, are you not? You are confusing unity, or *unité de négociation*, or what we call in English a bargaining unit, with the bargaining representatives.

If you suggested, as, again, when the time comes, I would like to suggest to this Committee, that the law provide—as the Industrial Relations and Disputes Investigation Act provides—that more than one bargaining agent may be in the same bargaining unit and have two or three bargaining agents certified for one bargaining unit, I would follow you—I would have no difficulty—because then the liberty of the employee to choose his bargaining agent would be protected. But when you say that the bargaining unit should be scrapped, that is a different story, because then you have different sets of negotiations for the same

classification of employees, and you have the danger, if not the certainty, that there will be different results in terms and conditions and in wages.

I cannot see at the moment how a provincial government across the province and the federal government across the country can have people doing the same work under different conditions and at different wages. You would not agree to that in the province of Quebec, I am quite certain. You could not agree that a clerk in Trois Rivières be paid less than a clerk in Montreal, both working for the province of Quebec. That is why you represent, if I remember correctly, almost a totality of the public servants in the province of Quebec.

Mr. PEPIN: Not only almost.

Mr. LEWIS: Entirely; all right. You represent, in one bargaining unit, all the employees in the province of Quebec, and you are able, therefore, to set a pattern of conditions and of wages which treats all members of the bargaining unit employees of the province of Quebec the same. If you do not have that across Canada, you would have the same, it seems to me, difficult result that you would have in Quebec if you had a bargaining unit in Trois-Rivières, and a bargaining unit in Montreal, and a bargaining unit in Hull, each negotiating its own terms, conditions and wages. Is that not right?

(Translation)

Mr. PEPIN: On the second point, when you talk about Quebec and you want to assimilate it to the rest of Canada, it does seem to me that this is a false point of view because in the Province of Quebec, you can at least understand that there is more homogeneity, a great deal more homogeneity, much more than in the whole of the country, which covers a much vaster territory and which has a social background involving various ethnic groups. Note that when I raise this question I am not raising it because there are French-speaking and English-speaking Canadians. I think this would not reflect the view of the C.N.T.U. in a proper manner. It might be looked at as a purely linguistic matter, but there is a problem of the worker. The worker wants to exercise his freedom of association, and in the present state of social reality, he is in a situation where while it is possible to exercise it, it would be much more difficult. So when you bring up Quebec, I thought that this might very well be brought up this morning, but you might very well share my point of view on this matter. It is very difficult to compare Quebec's situation to that of the entire Canadian sphere. Now, on the same point about Quebec, there are certain groups which are not linked with the provincial employees' union, but which fall under the scope of the general law on labour relations. I am referring, for example, to the provincial Liquor Control Board. The employees there come under the normal labour code and have the same rights as any other employees. But in that it is not a separate employer. But there are complete rights there. But in Bill C-170, a separate employer has got more rights, many more than the separate employer in the Province of Quebec.

But you said that I was confusing certain things together. That may be. But it is possible that if this bill is passed, you will have various councils covering various units and who will seek common certification, but not separately. I do not think that it is possible to obtain a separate certification by saying I will link up with other groups and these groups would link up together for joint

certification. It is possible that I am wrong; I am not a lawyer, but I do not think that I have actually confused something here.

The JOINT CHAIRMAN (*Sen. Bourget*): On the same subject, Mr. Keays.

Mr. KEAYS: Yes, on the criticism—

Mr. Pepin, in your brief you are dealing with designated employees and with those concerned with administration. I think you want to ensure the right of negotiation. In your brief you are attempting a solution to this problem. What kind of solution?

Mr. PEPIN: The reply is that it should not be for the Governor-in-Council to give the answer. It should be for the Staff Relations Board to give the answer. It should determine who are to be the employees, who are to be represented, and who cannot be, and this can be dealt with under the Industrial Disputes Investigation Act which does set up criteria, and it is for the Staff Relations Board to apply them. In the other legislation, the act does not try to regulate everything in detail because if you want an amendment, it becomes much more difficult. So, for this reason, you have a specialized agency and there are excellent people in positions of authority, for example, members of the Cabinet. But nevertheless, they are not specialists in every one of the fields involved. They cannot determine whether this or that category should be capable of unionization and others not be. I think this should be within the ambit of the Staff Relations Board and it should have a part of decisions.

The JOINT CHAIRMAN (*Sen. Bourget*): Mr. Énard.

Mr. ÉMARD: Mr. Chairman, there is another problem which Mr. Lewis wanted to discuss. I am glad to hear Mr. Pepin wants to have uniform rates of wage across the country for identical work.

Mr. PEPIN: The highest possible, too.

Mr. ÉMARD: Now, regarding the geographical factor, I think in industry, the geographical factor, "Area differential" can lead to lower wage rates, you may have a lower wage rate in many cases for plants situated outside certain areas. But I wonder what is the position of the employer in the case where the wage paid by industry seems much higher than in the rest of the country. I would remind you that in certain committees we have had discussions about industrial concentration such as those at Windsor, Sarnia and Vancouver and there we have been told the federal employees were not paid enough because the local wage rates were much higher there than in the rest of the country. Do you think that the geographical factor should be brought in here so it would make it possible to pay higher wage rates in such places as the ones I mentioned? Or do you think that ought to be eliminated completely?

Mr. PEPIN: The law should not deal with this. The law, if it accepts collective bargaining should not set up the criteria which will be used in negotiations. The law, if it does that is deciding very largely for the Arbitration Board in advance and leaves no latitude. But I know from my own experience just how difficult it can be to negotiate for a province. I would certainly hardly expect it to be easy for the whole country.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions on collective bargaining?

Mr. WALKER: You are in disagreement with the bargaining units or the categories being named ahead of time. You are suggesting this should be left to the Staff Relations Board to decide. Well, in practical terms this would mean setting up the Board first before anything was done about legislation. Is this correct?

(Translation)

Mr. PEPIN: Yes. The bill can lay down the broad principles, it can see that the Staff Relations Board has the authority to decide what should be the bargaining unit, that is the present federal law of the matter and it does seem to me this could be done in the same way within the public service.

(English)

Mr. WALKER: Would this not be postponing something that has taken ten years to achieve, the actual starting point? We have to get this off the ground some time. I hate to think of the confusion and the infighting, if you will, for the establishment of these units, if we have to go another year or two years before the Staff Relations Board can do the naming of these bargaining units. There has been great pressure and the Government has certainly acceded to this pressure and, as a matter of fact, has given some leadership in this matter of collective bargaining for the public service. We are moving along to the point now where, if Parliament so decides, it can be a fact. My view is that your suggestion would simply postpone this whole procedure for quite some time.

(Translation)

Mr. PEPIN: I do not have the same point of view as you have regarding our brief. There is not one law in this world which should decide that somebody is going to be in a union unless you can have a law to make union membership compulsory. Let us take this Bill 670. For many groups it might take months and years before they take anything out of the bill. I say that may be so, but it might depend on the degree of unionization of the employees. Since we, ourselves, believe that the law should rather be a general piece of legislation laid on broad principles. Those employees themselves who believe that they should have a valid responsibility of the solution of their problems will see to it that they join a union.

I feel the act should lay down the broad principles, and that the employees who want to make use of it can do so, and then, the law will apply just as other industrial relations legislation applies. There are many employees outside unions. There are 70% or 65% of employees who are outside unions, but the law is there for those who want to use it. Those who do so do so. If Parliament wants to say, "you've got to organize yourselves in this or that way", it seems to me that this is acting like grand-daddy, it seems to me that employees should decide this and make their own representations. They should decide what kind of unit they want, and it should be their own representation. It should be their own decision, so that you get a minimum of order in the Public Service.

Mr. ÉMARD: On page 13, you refer to the fact that "conciliation procedures will not be satisfactory to the federal public servants, that then the right and the resort to strike will prove mostly illusive". Do you mean that then the law will not be obeyed and that ultimately legislative measures will be brought in to regulate disputes?

Mr. PEPIN: Do you mean that in this part of our brief we deal with a purely theoretical choice that you make when you ask for certification, that it is a strike as means or arbitration. We say it is a theoretical choice because when you try to bring your choice into effect, there are so many obstacles that it would be practically impossible to use a strike. Among other things, a strike can refer only to certain specific matters. Just suppose I represented a group of public servants and suppose I was in disagreement with the government as employer. I report to the Board, the Board refers me to the Conciliation Board, and the Conciliation Board tells me what I can strike about. Once the report is published, let us suppose that it gives good grounds for strike. Suppose that it is not really satisfactory. Then I check under Article 101 as we quoted it in our brief, if it affects the work of other employees who have chosen some other means of settling the dispute who are not even eligible for unionization. With all those obstacles, you can say that the right to strike is quite theoretical. It would be practically impossible to make concrete use of it because you do not strike just for the fun of striking. I am quite sure that that is well understood by all the members of this committee. If I have the right to strike, then I ought not to be put in a position which is such that it is impossible to use it, and if we are going to have compulsory arbitration, let it be said in the law and let it not be said there are two or three choices when there is only one way which can be used.

Mr. ÉMARD: When you say that you must not affect some other group of employees who are not unionized, who use some other means of negotiation, does that mean that you are responsible if you call a strike? Are you responsible for the other employees being out of work?

Mr. PEPIN: I think that the interpretation of the law could go so far as that, Mr. Émard. Maybe I am wrong. I say again, I am not much of an expert in the law, but it might go as far as that, judged from what is written in the bill.

(English)

Mr. LEWIS: May I suggest what you are saying is that even if the law does not mean that it will mean that no other Government employee who is not in the particular bargaining unit on strike would be able to stay away from work in solidarity with the strikers? If your strike induces others to support you then you are violating Sections 101 and 102 of the Act. That is what you are saying, I think.

(Translation)

Mr. PEPIN: I believe so, yes.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Mr. Hymmen?

Mr. HYMMEN: Mr. Chairman, the brief gets rather involved on pages 17 and 18 with regard to this situation. The brief suggests there should be more

trust between the employer and the employee on a unilateral direction. I suggest that it could be the other way too, because in introducing this bill, I am quite sure it was not the intention to provide the right to strike before certification and then to take it away afterwards. I rather question the interpretation here, and I think our legal advisers could correct that at a later date.

Another question in the brief is the two year period that is objected to. Since, at the moment, we have at least 700 groups and 1,700 classifications, and since this bill in itself is a revolutionary move regarding federal civil servants, would you not agree that the two year period or the gradual implementation of this over a period would not be in the interest of the employee as much as it is in the interest of the employer?

(Translation)

Mr. SAUVÉ: It is not said that the law will take away the right to strike, but what we are saying is that the right to strike is purely illusory in practice. It is quite different under section 101 as well as under the decision which has to be taken even before you are born, so to speak.

So I think you ought to be very careful about the interpretation of our brief. We are not saying that the bill removes the right to strike, but we are saying that practically speaking the right to strike is illusory.

(English)

Mr. HYMMEN: On a related question, Mr. Chairman, at the middle of page 18 you suggest that the board would support its own declaration in regard to these other matters. You are assuming the board would make an arbitrary decision without going to the various parties and reviewing the situation before.

Mr. SAUVÉ: Is that page 18 of the English text?

Mr. HYMMEN: Yes.

The JOINT CHAIRMAN (*Sen. Bourget*): Would you repeat the question, Mr. Hymmen.

Mr. HYMMEN: The brief says, after referring to section 104 and others:

It is true that no legal action can be taken without the consent of the board, but there is reason to believe that the board will support its own declaration.

In other words, if the board would just act without reviewing the situation at the time.

(Translation)

Mr. PEPIN: What we are trying to say is this, the employer, which is the government, or a separate employer, may ask for statement from the Board before the strike is called. Once this statement is made, the employer can take any proceeding without the authority of the Board, which means that the Board will actually stand by the consequences of the first reference to it, according as to whether it is a yes or no. That is—unless I have not understood the question too well—

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Does that answer your question, Mr. Hymmen?

Mr. HYMMEN: Perhaps the brief is not understood too well.

Mr. PEPIN: I will be glad to clarify further.

Mr. WALKER: If I may just elaborate, Mr. Chairman, on your suggestion that the board have the right to name categories. I suggest there would be great confidence displayed in the board if they are going to be given this authority. But over on page 17, your confidence in the board, in the one instance, is not borne out in the second instance, when you have the feeling that they will not, after a thorough examination, give an impartial view on the subject referred to. I am talking about article 103(1) at the bottom of page 17. It says:

the employer may apply to the board for a declaration that the strike is or would be unlawful and the board may make such a declaration.

Surely if there is confidence in the board, it would be looking into all aspects of this. They may, or you could have it read "may not" make such a declaration.

Mr. Chairman, I would like to compliment Mr. Pepin and his officials on this brief. It is a good brief and this is what causes such discussion in a Committee of this kind. Do not feel you are being shot down in flames.

Mr. LEWIS: He does not look at it in that light.

(Translation)

Mr. ÉMARD: Mr. Pepin, you say the right to strike is illusory for those who don't choose arbitration.

Mr. PEPIN: Yes.

Mr. ÉMARD: The Civil Service Act in the province of Quebec forbids strikes where you have essential services, unless there was an agreement on the maintenance of these services etc. etc. I think you know more about this than I do. This affects the right to strike. Do you feel that restriction based on public security as in the present bill does not give more freedom than restrictions based on essential services?

Mr. PEPIN: If you are going to make a comparison, I can easily explain to you that the provincial law is rather dubious on this point. If you will give me a moment. We negotiated last year with the Government of Quebec, and we asked what are essential services. We were given as an example that of somebody "who occupied a very high position". We eventually discovered that this person had been dead for six months and had not been replaced, and yet the Government said it was a very important matter.

I think it is quite important that we understand this. We were not entirely in agreement with that either, but we are now considering the possibility of the right of strike under Bill C-170. We are here faced with a straitjacket, how do you get out of it?

How do you deal with dismissals, for instance? These are normally part of collective agreements in private industry. You have been in industry. You would

not have readily accepted the idea that dismissals should be excluded from the purview of the arbitration board? There may be cases arising where there has been undue use of the power of a superior and this should be part of a collective agreement. It could be part of a collective agreement if there is agreement between the Government and the employees, but if there is not to be any agreement, there is not one conciliation board or one arbitration tribunal which might right the wrong.

The classification of employees is another matter. It is to me perfectly normal that that should be a matter for collective agreement and not for a unilateral decision. Arbitration is arbitration, the right to strike is right to strike, these are two different things.

Mr. LACHANCE: Mr. Pepin, do you really think that the government, any government does not really intend to implement the results of collective agreements and not to favour in every way possible collective agreements and the bringing together of the parties involved?

Mr. PEPIN: I am sorry I gave that impression. But what I meant to say was that there appeared to be some subjects which are not negotiable, and that some of these, in my opinion, should be negotiable. When I spoke about dismissals, just look at Bill C-170, it defines the collective agreement in a wide manner. If there is to be agreement between the state and the employees, there is no problem, you can have an agreement on anything. But if the Government comes along and then decides that dismissal is not to be dealt with by collective bargaining, it is no use going to conciliation or arbitration. I, myself, was considering a possible means of dealing with problems of dismissals and so forth, and if this means is not agreeable to the Government, if I want to go into conciliation with the methods which I would like to propose, I am convinced that the government is willing to respect its own law, I am sure of that, certainly in the case of an act which it introduces itself into the House, but I do not consider that conciliation is going to be the answer.

Mr. ÉMARD: In reference to the opinion of your organization on page 20, paragraph 4, that employees' unions should be represented on the board. Now what about this organization of an independent chairman, a representative of the employers and a representative of the union? In your opinion, is it not always the independent member who decides?

Mr. PEPIN: First of all, I feel that the employees, or their representatives should be present on the Staff Relations Board, and likewise on the Arbitration Board. It seems to me that in many cases, it is the chairman who, for all practical purposes, is the one who has to give the ruling and to take the decision. This is what you said. But it is for the parties to put forward their opinion to make it possible for the other party, interested party, to know what their positions. It seems to me that there should be no *a priori* exclusion of those who are members of an association or who are its direct representatives. But here again, this is not the essential point of our brief. It is an important point but it is not the most important point we present. It is not the most important point I have to discuss with you this morning.

Mr. ÉMARD: A final question. Does the fact that your organization presents no brief on the other bills mean that you are pleased with them?

Mr. PEPIN: That means...Have you got copies of the other bills, Sen. Bourget?

The JOINT CHAIRMAN (*Sen. Bourget*): I will see that you have copies of Bills 181 and 182 so that you know what they are about.

Mr. PEPIN: We are not usually very shy. If we have anything to add, Mr. Émard, we will let you know.

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Are there further questions, Senator Fergusson?

Senator FERGUSSON: I have a question I would like to ask. In the brief comparisons have been made with the Industrial Relations and Disputes Investigation Act. On page 6 of the English version it says: "If we refer to the list of functions excluded from the bargaining units, it seems that a great number of federal public servants will not benefit from the advantages of collective labour agreements." Then it goes on to some of the definitions and then at the end of the paragraph it says: "The federal industrial relations act is a lot more flexible on these questions."

I do not have a copy of the Industrial Relations Act with me but I am under the impression that under that act professionals are excluded and this is not the case in Bill C-170, so would you not say that Bill C-170 is more inclusive and broader in relation to that?

(*Translation*)

Mr. PEPIN: The first thing I would like to say, Madam, is this: when we speak of great flexibility in Industrial Disputes Act, we mean the Board has more authority than what is given under Bill C-170. Now my colleague has the bill to which you refer and I think that professional people are not excluded because they are professional but because they are confidential employees.

(*English*)

Mr. LEWIS: Not as professionals. They are excluded as management or as employees and are engaged in a confidential capacity with relation to labour relations.

Senator FERGUSSON: Thank you. I am sorry, I misunderstood.

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions.

(*Translation*)

Mr. LACHANCE: You are speaking of what the government can do respecting the determination of categories for the purposes of collective bargaining, and if I understand you said that it should be the Staff Relations Board which should do this. I am sorry that I came along rather late. I think that you did have some suggestions to make about how the Staff Relations Board could do this?

Mr. PEPIN: No, I did not make any very precise suggestion. I will try to give you the best possible answer I can. I think that the law should simply state certain broad principles and it should leave it up to the Board to decide what should the collective bargaining units which are fit to bargain. In this respect

the bill is rigid. There should be an attempt to establish the natural units. I gave an example of somebody working in Newfoundland who would have to exercise his right of association with another employee of the same category in Vancouver. This is the sort of thing I had in mind. I am considering a bill which would simply be a kind of master plan governing legislation which would leave it up to the employees and associations to solve their own problems.

Mr. LACHANCE: On the request of the employees themselves?

Mr. SAUVÉ: On the request of the Staff Relations Board, there can be representations made in accordance with the Act. The Act should establish the criteria.

Mr. LACHANCE: If each party comes before the Board stating various points of view, then this may lead to considerable dispute.

Mr. PEPIN: Yes, certainly. Of course if you are trying to set up a law to eliminate disputes, you are going to eliminate freedom itself.

Mr. LACHANCE: Are you suggesting that the government is going to select the groups which suit it?

Mr. PEPIN: Yes. I am suggesting that the 67 national units provided for each professional group, do not respect the liberty of people to choose their own association and this is the basis of our position. I repeat it.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions or suggestions on the other subtitles of Part II or Part III? If not, this will conclude the brief presented by the CNTU.

(Translation)

May I thank you, Gentlemen, for your excellent brief. I thank you in the name of the Committee and for your clear answers. Once again thank you very much.

Mr. PEPIN: Thank you.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): I have been informed by the Clerk of the Committee that a copy of the IRDIA will be distributed in French and in English. Is that agreeable?

The JOINT CHAIRMAN (*Mr. Richard*): The next meeting will be tomorrow morning at ten o'clock and there is a Steering Committee meeting this evening in Room 112N at eight o'clock.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations
and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

TUESDAY, OCTOBER 18, 1966

WITNESSES:

Mr. E. L. Harrison, Chairman, Fisheries Association of British Columbia;
Messrs. J. F. Mazerall, President, and L. W. C. S. Barnes, Executive
Director, The Professional Institute of the Public Service of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish*
Guysborough),
Mr. Hastings,
Mrs. Quart,
Mr. Roebuck—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Faulkner,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

Representing the House of Commons

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Orange,
Mr. Ricard,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

Addendum (Issue No. 6—June 28, 1966)

The following paragraph should appear on page 220—Brief of the Professional Institute of the Public Service of Canada on Bill C-170.

Para 42—Paragraph 42 dealing with the revocation of certification for abandonment or other cause clearly involves a potentially delicate situation and it would appear to the Institute advisable in such cases to convene a board of five members and to require the unanimous vote on at least one of the two panels. To this end, it is suggested that the following wording should be added to sub-paragraph 2 of paragraph 42, "A decision by the Board under the present section is a decision signed by the Chairman himself and supported by a minimum of either the two members of the panel representing the employer or by the two members of the panel representing the interests of the employees."

MINUTES OF PROCEEDINGS

TUESDAY, October 18, 1966.

(17)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Fairweather, Hymmen, Keays, Knowles, Lachance, Lewis, McCleave, Orange, Ricard, Richard, Tardif, Walker (15).

Also present: Mr. Rapp.

In attendance: Mr. E. L. Harrison, Chairman, Fisheries Association of British Columbia; Messrs. J. F. Mazerall, President, L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada.

On request from the Joint Chairman, Mr. Richard, it was moved by Mr. Tardif, seconded by Mr. Walker, and adopted that the brief dated October 17, 1966, submitted to the Committee by the International Printing Pressmen and Assistants' Union of North America, be substituted for their letter dated October 6, which was accepted into the record at meeting (15) October 13. (*See Evidence*)

The Committee heard brief remarks from the Fisheries Council of Canada, then passed to the questioning of the Professional Institute of the Public Service of Canada on their various briefs.

The Committee agreed to accept as an addendum paragraph 42 page 14 of the Professional Institute's brief on Bill C-170 which was omitted from the English version. (*See back of frontispiece*)

The Professional Institute was permitted to present an additional short brief relative to Bill C-181.

The Clerk of the Committee was instructed to obtain a copy of the terms of reference of the British Government's Standing Advisory Committee on the Pay and Conditions of Higher Civil Service as well as the by-laws of the Professional Institute.

At 12.15 p.m., the questioning of the witnesses concluded, the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, October 18, 1966.

● (10.10 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Order. Gentlemen, yesterday we were given a brief from the International Printing Pressmen and Assistants' Union of North America and they have asked that this short printed copy be substituted for that which they had presented before in mimeographed form. I understand there are some corrections they wish to make.

Mr. TARDIF: Substitution of submission?

The JOINT-CHAIRMAN (*Mr. Richard*): This is a substitution.

Mr. TARDIF: I so move, Mr. Chairman.

Mr. WALKER: I second that motion.

Motion agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): The brief reads as follows:

Honorable Sirs.

We would like to bring to your attention the following, which is presented in support of other Printing Craft Unions, which have had the opportunity of presenting a brief covering Bill C-170.

The International Printing Pressmen and Assistants' Union of North America, AFL-CIO, CLC, (hereinafter referred to as the I.P.P. A.U. of N.A.) represents a large majority of workers in every phase of the printing industry across Canada, with 59 Locals representing over 11,000 members, which includes a majority of pressmen and assistants employed by the Government Printing Bureau of Hull, Quebec.

The I.P.P. & A.U. of N.A. wish to submit, for your consideration, the following:—

The Printing Pressmen employees in the Government Printing Bureau enjoy the wages and conditions of work based on printing contract prevailing in the City of Montreal. It is necessary to inform your Committee that there is anxiety on their part that Bill C-170 might take away from them these conditions of pay and work that they have enjoyed due to their affiliation with I.P.P. & A.U. of N.A., dating back for many years.

Our International Union had been making semi-formal representations for many years as it concerns employees in the printing department. Although it has been on a semi-formal basis, this can now be

formalized to conform to the rules and regulations of the Public Service Staff Relations Act, providing these rules are patterned on Industry practices within the Graphic Arts Industry of Canada.

Many trade unions have membership in Government Service, and it is evident now that the right of association is recognized in Government Service. For many years our organization is one of such unions with a history of semi-formal bargaining by representation.

The Graphic Arts Industry of Canada has recognized individual crafts requiring special wages and conditions of work, and look to the Government to follow seriously this established pattern of collective bargaining.

The Canadian Labour Congress, of which the I.P.P. & A.U. of N.A. is an affiliate, in their brief submitted to the Preparatory Committee on Collective bargaining in the Public Service, stated the following:—"We would assume that bargaining on behalf of employees in the Department of Public Printing and Stationery would be conducted by the Government with representatives of the Printing Trade Unions affiliated with the Congress."

In summation, we would suggest that the Committee give serious consideration to the Graphic Arts Industry as it concerns Craft Unions and their desire for a certification on a craft oriented basis, and allow them bargaining rights, so that they may continue to enjoy wages and conditions of work that prevail in the skilled classification to which they belong. This could be done on an individual craft union basis or through the Council of Union Employees, as presently constituted in the Government Printing Bureau. We feel and recommend that the final choice should be made by the majority of the individual employees working in their particular skilled trade, and that the Craft Unions be given the same consideration as they receive at the present time within the Graphic Arts Industry.

Respectfully submitted,

ROGER J. GAGNON.
Representative.

I also received a request from the Chairman of the Fisheries Association of British Columbia on behalf of the Fisheries Council of Canada to be heard this morning. It is a short presentation from Mr. E. L. Harrison. If it is the wish of the committee we will hear him now.

Mr. E. L. HARRISON (*Director, Fisheries Council of Canada*): Mr. Chairman, Honourable Senators, members of the House of Commons, my name is E. L. Harrison. I am a Director of the Fisheries Council of Canada. I am representing the national trade association here today. We appreciate very much, Mr. Chairman, the arrangements which you have made, on such short notice, to fit us in.

As you are aware, the Fisheries Council of Canada is a national trade association representing the commercial fishing industry. I will leave a file here

and an appendix indicating the membership of this Council which is comprised of some 17 associations covering Canada from coast to coast.

The Fisheries Council of Canada normally deals directly with subjects related to the fishing industry on both coasts and in the interior, and primarily with matters directly related to the production, sale and marketing of its products.

Because we are a national industry geared to the export market, our future is directly related to our ability to compete in the markets of the world and control our costs accordingly. Two phases of our current Canadian economic scene caused us a great deal of concern in recent months. One was the alarming rise in the wage pattern, the effect of which could not be restricted to the industries involved. The other was the effect of strikes which strangle the arteries of commerce, such as we saw in connection with the railways.

We found that the proposals that this Committee is studying here today in the form of Bill No. C-170 added to our concern immeasurably with respect to the effect on what I have termed the arteries of commerce, because, as we read Bill No. C-170 it includes as a means for bargaining in the public service the introduction of the strike. Accordingly, we wired the Minister of Labour and others in the Cabinet advising of our concern. This, Mr. Chairman, was expressed as follows:

"The Honourable J. R. Nicholson:

The Fisheries Council of Canada representing trade which largely dependent on export markets greatly concerned about inflationary effects of recent wage increases in which the government was involved (Stop) Precedent set will result in severe labour problems in this industry and impairment of comparative positions in export markets (Stop) Recent disruption of rail service was costly to this industry and deplore government apparent intent to give civil servants right to strike thus opening way for successive tie-ups of vital services and further inflationary settlements. Situation is serious and Bill C-170 will aggravate it to frightening proportions if this bill permits strikes in the Civil Service (Stop) Urge government to hold up Bill C-170 and to enact legislation to guarantee continuance of all vital services"

We received acknowledgment from members of the Cabinet and particularly from the Minister of Labour in which he commented more fully about the recent wage settlements and went on to say:

"You have said that the enactment of Bill C-170 which concerns collective bargaining in the public service of Canada will permit strikes in the civil service. The bill does provide that employees may take strike action in certain circumstances but as the bill presently reads the employees can elect to have arbitration for the settlement of disputes. I would advise you that this bill will be considered by a committee of the house and you may wish to make representations on behalf of your council at the appropriate time."

Hence, Mr. Chairman, when the directors of the Fisheries Council met in Ottawa yesterday, the president requested that we appear before this committee

to do as suggested by the Minister of Labour and state specifically our position before you.

The nature of the bill as we read it appears to conform to what the minister has said and that is, that the option of arbitration or conciliation and strike action is up to the employees in almost all cases, or at least in most cases. This does appear to be in contradiction of the situation that the government has just had to handle. We have seen the economy disrupted by a railway strike, and the government passed legislation in order to get the railway employees off strike. While they are doing that, they are presenting a bill, which I gather was supported by all parties, to make it permissible for other large segments of civil servants to go on strike and the effect of this, I think, would be very difficult to underestimate.

Mr. Chairman, our position is very simple and straightforward. The conditions as set forth here are alarming. In our opinion, and we have a great deal to do with members in the public service, these people are entitled to be treated with all consideration and all fairness. I think this is all they expect. To introduce another facet in bargaining will, I feel sure on the basis of history alone, indicate that this is an introduction to a form of chaos that this country cannot afford.

Mr. Chairman, that is all we have to say at this time.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. LEWIS: Where is Mr. Harrison from?

Mr. HARRISON: I am from Vancouver.

The JOINT-CHAIRMAN (*Mr. Richard*): Any other questions? Thank you very much, Mr. Harrison.

Mr. HARRISON: Thank you, Mr. Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): This morning we are to have questioning of the representatives from the Professional Institute of the Public Service of Canada. Mr. Barnes and Mr. Mazerall are both here this morning again.

Mr. Barnes, you have before you a supplementary brief from the Professional Institute of the Public Service of Canada; perhaps you would comment on it before proceeding.

Mr. L. W. C. S. BARNES (*Executive Director, Professional Institute of the Public Service of Canada*): Mr. Chairman and members of the Committee, if it would be your pleasure, may I introduce a slight correction to the English version of the brief on Bill No. C-170 which we had the honour of presenting in June. The French version is correct. Unfortunately, one section was omitted from the English version. It should be on page 14 of the English version and it refers to paragraph 42 of the bill. We would ask whether we could add the following with reference to paragraph 42.

● (10.20 a.m.)

'Paragraph 42 dealing with the revocation of certification for abandonment or other cause clearly involves a potentially delicate situation, and it would appear to the institute advisable in such cases to convene a board of five

members and to require the unanimous vote of at least one of the two panels. To this end, it is suggested that the following wording should be added to subparagraph 2 of paragraph 42. 'A decision by the board under the present section is a decision signed by the chairman himself and supported by a minimum of either the two members of the panel representing the employer or the two members of the panel representing the interests of the employee.'

And secondly, Mr. Chairman, if we may read a short supplementary brief in respect of Bill No. C-181.

Mr. KNOWLES: Mr. Chairman, in view of the fact that that is a correction to a brief that already has been printed in our minutes, I wonder if it could not appear as an—what is the Latin word for it—"corrigentem" or something?—addendum or corrigentem on the front of today's minutes.

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, I think that would be a good suggestion.

Mr. KNOWLES: If it is just buried in the text it is lost.

The JOINT-CHAIRMAN (*Mr. Richard*): Yes. The correction just made should be included at the beginning of the presentation as an addendum to the prior brief. Is that the wish of the committee?

Mr. BARNES: To the brief in respect of Bill No. C-181, Mr. Chairman, we would submit the following which is actually an addition dealing with three sections which we did not include in our original brief,

This amendment refers to clause 21. The importance of the appeal procedure in the operation and safeguarding of the merit system is widely recognized and accepted. In this regard the professional institute believes that the provisions of clause 21 of Bill C-181 call for reconsideration. As presently written, this clause does not seem to satisfy the requirements of natural justice in that it permits the Public Service Commission to act as judge in its own case. It is therefore considered that it would be preferable if an independent public service appeals tribunal or judge was established. It is believed that persons appointed to this office should enjoy the status and protection afforded to the judiciary and that appeal hearings should be conducted in general accord with procedures applicable in a Canadian court of law.

In respect of amendments to clauses 28 and 31, Clause 28 of this bill deals with promotions and provides that employees who have been transferred or promoted are to be subject to a probationary period within which they may be notified by the deputy head that they have been rejected and that at the end of the notice period they will cease to be employees.

This procedure discourages initiative and places in hazard the pension and other rights earned by an employee during satisfactory service in his previous grade or location. In view of this, it is felt that an appeal provision should be incorporated in clause 28. This provision would be of the same nature as subclause 3 of clause 31 which deals with dismissal for incompetence and incapacity.

The professional institute's recommendation in this regard relates only to promotional or transfer appointments from within the public service and not to new appointments made by open public competition. It is further recommended

that the words: "in writing" be inserted after the word "notice" in the second line of subclause 3 of clause 28. Acceptance of the professional institute's previous recommendation with regard to the establishment of an independent appeal procedure would necessitate minor amendments to subclause 3 and 4 of clause 31. Thank you.

The JOINT-CHAIRMAN (*Mr. Richard*): Now, gentlemen, we are ready for a period of questioning I suggest that we should begin on Bill No. C-170. Are there any questions?

Mr. BELL (*Carleton*): There are two or three principles or matters of a general nature upon which the briefs are silent. I would like to ask Mr. Barnes about them. The first is, what is his opinion as to the future role or status of the Pay Research Bureau? Should that be continued, and if it is to be continued, should its structure to be provided for by statute?

Mr. BARNES: The institute is very concerned that the role of the Pay Research Bureau should be defined and defended. We feel that it is essential that if we are to have meaningful collective bargaining there should be a neutral and accepted source of data and I think we would accept the fact that the Pay Research Bureau has, by and large, met this requirement in the past.

We would look to a continuation of the Pay Research Bureau, possibly under the general supervision of the Public Service Staff Relations Board, as that supplier of data. The precedent has been established in the United Kingdom, as I am sure Mr. Bell knows, of a Pay Research Bureau operating under a collective bargaining regime and we should look to a very similar situation in Canada.

Mr. BELL (*Carleton*): Should that data of the Pay Research Bureau in your opinion, be made publicly available or made available only on a confidential basis to the negotiating parties?

Mr. BARNES: Essentially, Mr. Chairman, we feel that there should be more public release of basic data. We realize that there are limits to this. It may be very difficult to permit that fine degree of subdivision of data which might enable an astute observer to trace back the companies of origin and, obviously, companies would not be willing to release their pay data if they could be directly traced back. But there is an intermediate level of data in terms of means, medians, quartiles, and other statistical measures of a general nature which we feel definitely should be made available on a much wider basis than it is today.

Mr. BELL (*Carleton*): Then, Mr. Barnes, may I direct your attention to page 3 of your brief where you suggest the establishment of an independent review and advisory body which would make recommendations on the pay and conditions of service of excluded personnel. Would you like to expand on what you have in mind there? What type of independent review or advisory body would it be? Should this be put in the statute? What are your general views?

Mr. BARNES: We have been concerned for a long while. Mr. Chairman, with this point which Mr. Bell has raised.

As the bill stands, there can be a significant degree of exclusions. We hope that when the committee has considered our brief, the resultant bill will have

less scope for exclusion than it has at the moment; but inevitably there will be some. The machinery of consultation as presently established will no longer exist, and the excluded higher civil servants will be left in a very difficult situation. They will depend entirely, as we see it at the moment, on government decisions, and the precedent which we have drawn is again from the British experience in this field where they have established a standing advisory committee on the pay and conditions of the higher civil service. It is not quite a royal commission but it is a standing committee composed of eminent people in the academic and industrial fields in the United Kingdom who are available either at the request of the government or at the request of our colleagues in the Institution of professional civil servants, our British opposite numbers, to make recommendations on pay of the higher civil service. We feel very strongly that this is necessary in Canada, not only to protect the interests of the people who are excluded but also to protect the interests of other professionals, because relativity in the service in terms of pay is a yardstick which is laid down in this legislation. All too often in the past, in endeavouring to obtain justifiable salary adjustments in the professional ranks, we have been faced with ceilings formed by the salaries of either order in council appointees or other senior officials whose salaries are fixed. These have very definitely influenced salary adjustments which otherwise, I am sure, would have been looked on with more favour. We feel that the establishment of a committee of this sort is very important from the point of view of the excluded people and of the professionals immediately below them.

● (10.30 a.m.)

Mr. BELL (*Carleton*): How are the terms of reference of the advisory committee in the United Kingdom set out? Is this by order in council?

Mr. BARNES: I am not completely certain, Mr. Bell. I believe it is by order in council because, of course, the whole British collective bargaining structure was built rather loosely on precedents and exchange of memoranda and not based on statute. I think the advisory committee is based on an order in council.

Mr. BELL (*Carleton*): Mr. Chairman. I would like to see those terms of reference at some time. I wonder if the Clerk could by communication either with the Civil Service Commission or the British High Commissioner see whether those terms of reference of that committee could be obtained.

The JOINT-CHAIRMAN (*Mr. Richard*): Is it the wish of the committee that we obtain those terms of reference as mentioned by Mr. Bell? Agreed.

Mr. BELL (*Carleton*): Pursuing this matter further, Mr. Barnes, I wonder if you could indicate whether you think in the new atmosphere of collective bargaining there will be any role for the National Joint Council?

Mr. BARNES: I am a great believer, Mr. Bell, in the National Joint Council having had the honour of serving as a member of the Council for some years, and I believe there is a very real and important role for the National Joint Council under the conditions of collective bargaining.

I believe there is a place for a forum, for what in industrial terminology would be a labour-management body, dealing with areas which do not fit in with the rigid structure of collective bargaining, and also taking on the management of projects or decisions which have been arrived at as the result of

collective bargaining. I think the Group Surgical-Medical Plan which was fostered by the National Joint Council and is still monitored and watched by the National Joint Council is very typical of that sort of management role which a continuing N.J.C. would be able to accomplish.

Mr. BELL (*Carleton*): Should that be provided for by statute or is the informal basis it has at present sufficient?

Mr. BARNES: I have no very strong feelings on this, Mr. Bell. It does presently stand by order in council. Its constitution, of course, would need to be amended. As you are perhaps aware, N.J.C. itself has been working on this for many years and has at last produced recommended amendments to its constitution. Perhaps Mr. Mazerall would have some thoughts on that?

Mr. J. F. MAZERALL (*President, Professional Institute of the Public Service of Canada*): I agree, Mr. Chairman, that there is certainly a place for the National Joint Council. I would hate to see it disappear, but I do not think it should be under legislation. I think that an order in council is quite sufficient.

Mr. BELL (*Carleton*): Thank you. I will have some other questions later on, on the other bill, Mr. Chairman.

Mr. HYMMEN: Mr. Chairman, I do not know whether this question was asked previously when Mr. Barnes was here before. How many employees does the professional institute represent and are these all in the professional and scientific category?

Mr. BARNES: The membership of the professional institute, Mr. Chairman, is just under 10,000. The membership requirements are essentially occupation in professional areas in the public service. It is rather difficult to compute exactly how many people that does include as a potential until people have been reclassified into the new classes, but possibly in the order of 16,000. Roughly, two thirds of the total of the professional fraternity, as we look on them at the moment, are members of the institute.

Mr. HYMMEN: On the first page you make a statement which I tried to draw out yesterday in questioning another group. You say that the analogies between industry and the civil service can be drawn too fine. I think you are quite definite on that statement.

Secondly, in questioning by Mr. Bell, you seemed to favour the English system and you already established that this is a system that grew up over forty or fifty years and there is no legal statute for it. On page 4, you mention again the peculiarities of the civil service and its organization features in regard to professional employees. Since under clause 2, subparagraph (r) the occupational categories have been defined in which scientific and professional personnel are an exclusive group, do you not think that this satisfactorily isolates the professional from the non-professional?

Mr. BARNES: To a certain extent it does, Mr. Chairman, but we have seen recently transfers of people whom we regard as professional from the category labelled as professional, and we might mention foreign service officers, translators, economists, and comparable graduates employed in the field of commerce who have been moved unilaterally out of the professional and scientific category and are now in the administrative category. It is not a rigid and watertight

system as it presently stands. For that reason, we would query whether it is quite right.

Mr. HYMMEN: In your parallel, and in your consideration of the private sector, your professional and scientific people are not in large masses, they might be excluded more or less on the basis of the administrative role. I realize we are considering here something which is entirely revolutionary, but I felt that the definition of the category seemed to provide this protection.

At another point in the brief you mentioned that the institute carried on roles other than that of a bargaining unit. Do you not have, or could you not have, some associate or affiliate membership? Is that feasible?

Mr. BARNES: That is actually what we do have, Mr. Chairman. We have an affiliate membership which is available to any individual member who may be excluded from collective bargaining. It is a non-voting class of membership, but we felt the legislation should be quite clear that the holding of such an affiliate membership is still legal, because as the legislation is presently written any form of membership might possibly be regarded as contravening the legislation. This is why we are recommending in our brief that the legislation be clarified in this regard so that a non-voting and non-policy forming class of membership is acceptable.

Mr. HYMMEN: I understand your explanation but there has been some representation already to us that a union member could not be a member of the board. By the same token, a managerial or administrative person who might be in a negotiating situation could not really be a member of your group except in an advisory capacity if you are certified for bargaining purposes. That is the point I was trying to make.

● (10.40 a.m.)

Mr. BARNES: I think this is taken care of in our concepts where our by-laws provide for an affiliate membership. We would hope that the exclusions would be kept to a minimum. In fact, this July when I was talking to my British colleagues, both on the staff and on the official side, I asked them about exclusion, and they asked me what the word meant. They just do not have it, and they have run a collective bargaining system, as Mr. Bell mentioned, for forty or fifty years without actually excluding people. They worked on the basic doctrine, which the professional institute here has always worked from, of voluntary abstention in the case of potential conflict of interest, but no rigid exclusion has ever been written into any of their legislation.

Mr. HYMMEN: Mr. Chairman, maybe I am out of order. Maybe it was your intention to proceed from the front to the back of the brief rather than jumping all over.

The JOINT CHAIRMAN (Mr. Richard): No. I understand that at this time members would wish to ask questions of a general nature and I think you are doing that just now, Mr. Hymmen.

Mr. HYMMEN: I have one or two more questions. With regard to the terms of reference of the Canadian tribunal against that of the Wheatley system, do you not feel that the terms of reference in the bill are at least as free as, or a little more so, those of the Wheatley system. I understand that under the British

tribunal there is a limit in regard to wage classifications in which these things can be considered. Is that not true?

Mr. BARNES: This is so, Mr. Chairman, but we do not consider that the British have gone to the ultimate development in all their proposals. We feel that within the total context this is a very rigid system, there is more flexibility in other areas in the British system, and if one is going to have a rigid framework of the type proposed in this legislation, then there has to be rather more room for adjustment in the phraseology. The British system is more flexible in many places.

Mr. HYMMEN: Just one final question. As I said before, you seem to favour the system which has been developed in the United Kingdom, which certainly has considerable merit. The essential part of this system, of course, is the ability to settle problems by arbitration. You mention specifically in paragraph 70, subparagraph 3, that the limitations as proposed are too restrictive. This subsection, of course, deals with matters under the control of the Civil Service Commission. Do you wish to see these things bargained, or do you think they should be excluded?

Mr. BARNES: We feel that many of the exclusions as presently implied in the legislation could seriously restrict the reality of collective bargaining. We feel, for instance, in the area of classification that a bargained solution in terms of salary could, in effect, be nullified by unilateral change of classification, which is presently outside reference to arbitration. We feel that so many of these things are so closely intermeshed that meaningful collective bargaining might be somewhat doubtful if certain of these areas are not open to arbitration.

Mr. CHATTERTON: Is the professional institute in any way affiliated with the federation or the association or the new alliance?

Mr. BARNES: In no way whatsoever.

Mr. CHATTERTON: Do you anticipate that your institute will hope to be the bargaining agent for the units within the scientific and professional categories?

Mr. BARNES: The policy of the institute in this regard is to seek certification for all bargaining groups that are essentially professional in content.

Mr. CHATTERTON: Can you tell me how many of your members are also members of either the federation or the association?

Mr. BARNES: We have no count on this at all, none whatsoever.

Mr. CHATTERTON: From my general knowledge, I think quite a number of your members are also members either of the federation or the association.

Mr. BARNES: There may well be some who are. I think this is perfectly true. I do not think it is a very great percentage, but there is dual membership across the whole of the civil service spectrum.

Mr. CHATTERTON: Do you anticipate any conflict between your institute and the alliance in applying for certification as the bargaining agent?

Mr. BARNES: I hope not. We have very friendly relations with the alliance and I hope that the word conflict will never enter into our relations with any of the staff associations.

Mr. CHATTERTON: May I ask what staff does your institute employ?

Mr. BARNES: We have a permanent staff at national headquarters which is 13 at the moment, and in addition, of course, we have the resources of the membership. We have a set of standing committees which are manned by the membership.

Mr. CHATTERTON: How many employees did you say?

Mr. BARNES: Thirteen.

Mr. CHATTERTON: Do you think that you would have to enlarge your staff in order to effectively act as a bargaining agent?

Mr. BARNES: Not significantly, because we have the resources of the membership. In matters of economics we have an economists group which contains the vast bulk of all the economists in the Service. In problems affecting health and welfare we have our medical group and our nursing group, and it has long been a tradition of the institute that members use their professional abilities in the service of the professional fraternity, and as such, of course, we can muster an expert from any area which happens to be under discussion. This has been the long tradition of the institute organization.

Mr. EMARD: Would you enumerate some professions that are in your institute, apart from the ones that are commonly known. Lawyers and doctors, I know, but what other professions would you have?

Mr. BARNES: All the bargaining groups which are listed in the Heeney Report. One could start from architects and go through to veterinarians, via archivists, historians, scientific research workers, economists, statisticians, foreign service officers, and translators. Roughly, we count about forty professions. You will realize that it is difficult when one comes to some of the new emerging professions to say quite what a man is. For instance, a man may have a degree in economics but he may be practising management analysis work, and so there comes a stage where it is rather difficult to say whether he is a management analyst or an economist. It is rather difficult always in a dynamic situation to say just how many professions one does recognize.

Mr. CHATTERTON: A supplementary question, Mr. Chairman; is a university degree or equivalent a prerequisite to membership in your professional institute?

Mr. BARNES: The basic requirement for full membership in the institute is university graduation or an equivalent qualification, for instance, a chartered accountant, and also the practice of the profession in the service. The mere holding of a qualification itself is not enough.

Mr. EMARD: Would it be possible to have a copy of the bylaws of your institute?

Mr. BARNES: Yes, certainly.

Mr. ORANGE: Just one question, Mr. Chairman: I would like to ask Mr. Barnes if there are members of the professional institute in other occupational groups, such as administrative or technical groups?

Mr. MAZERALL: We have members, Mr. Chairman, in the administrative and foreign service, and in the technical category as presently established under the Heeney Report and under this legislation.

Mr. ORANGE: Would you see the institute acting as the agent for your membership in these groups?

Mr. MAZERALL: Yes, if the bargaining group is a complete entity which we can describe, then there is no reason whatsoever why the professional institute cannot act for them.

Mr. KNOWLES: I have just one question, Mr. Chairman. Mr. Barnes, you have indicated that you felt there was a continuing role for the Joint Council. In view of the fact, that in various ways the scope is being broadened, more people are being brought into the civil service classification and everybody being included in the collective bargaining, would you favour broadening the membership of the Joint Council to include representatives of prevailing rates, in the various groups that are not now represented on the Joint Council?

● (10.50 a.m.)

Mr. BARNES: I think the point which Mr. Knowles made is essential, that the membership on the National Joint Council will eventually have to parallel the certified bargaining agents. I think that, in the end, the yardstick, should be that membership on the National Joint Council goes with certification as a bargaining agent in respect of one or more bargaining groups.

Mr. KNOWLES: If this is left as an ad hoc body, not provided for by statute, this will have to be effected by the present members of the Joint Council.

Mr. BARNES: Account of this has been taken, Mr. Knowles, in the recommendations for amendments to the constitution of the National Joint Council. I think it could be looked after in that way. but I certainly agree that the objective has, in the end, to be a council which is synonymous with the bargaining agents.

Mr. KNOWLES: Very good.

Mr. LEWIS: Mr. Chairman, I would like to discuss with Mr. Barnes a few matters which I think are dealt with in the brief but it might be worth while discussing them for a moment.

Like the institute, I am personally concerned about the exclusion of classification, promotion, demotion, transfer, and discipline, from the bargaining area. Could you perhaps help me by giving me any reasons you can think of why these areas should be excluded from bargaining?

Mr. BARNES: I find it difficult to find any reasons, Mr. Chairman, why they should be excluded. I feel that the preponderance of the argument is in favour of their not being excluded.

Mr. LEWIS: You will agree I suppose that the initial appointment cannot be subject to bargaining.

Mr. BARNES: No, this is the merit system. The initial appointment must be the subject of the merit system and I doubt whether there is any question about this. Then promotion again must be in accordance with the merit system,

but suitably safeguarded by an appeal system. This is one of the recommendations in the brief which I presented a short while ago; that this appeal system should not be operated by the appointing agency.

Mr. LEWIS: I was going to ask about this in my next question. I noticed in your supplementary brief you suggested a special appeal system. Why could you not include in a collective agreement the usual grievance procedure and the usual form of resolving disputes on promotion, or demotion, or transfer?

Mr. BARNES: I would suggest, Mr. Chairman, that our answer to that question would be an illustration of where the civil service and the industrial arena are not strictly in parallel. We feel quite strongly that there is a case for the preservation of the present basic approach to the system of appointment and promotion, which we all regard as the merit system, operating through a central organization applying control standards but safeguarded by independent appeal procedure. This, we feel, is particularly important in view of the powers which are to be given to the Public Service Commission to delegate its responsibility. This delegation is an area which obviously needs very careful monitoring if there is really to be a single policy that is being implemented, and not multitudinous departmental approaches to a common policy.

Mr. LEWIS: The point I have in mind, Mr. Barnes, and I am trying to understand it, is this. When you have the Public Service Commission, a body responsible for implementing the merit system, with which everyone of us agrees, and then you have an appeal procedure under that system, the appeal is made by the employee himself or herself. The difference between that and having it in the collective agreement is that the employee instead of being on his or her own, having to process this appeal, has an organization which takes up his or her cudgels.

In my rather long experience in labour matters I have always felt that the union's place in that appeal is really ever more important than in the field of getting another ten cents an hour. The fact that the member of the bargaining unit, when he feels aggrieved on any matters, is able to go to his organization and say, will you please take up my fight is very important. He has an organization with funds, staff and experience to take up his grievance. That is much the most important aspect of trade union organization of any form, whether it is in the public service or anywhere else.

This is my difficulty. I cannot quite accept your proposal, because of this difficulty, and I speak for myself. Like all members of parliament, and I am perhaps the junior at this table in the sense of service in parliament, I have frequent complaints by people, and the thing that always strikes me is that they just go it alone. No one person in a huge organization is able to do that effectively. I do not see why you cannot have the merit system, the criteria which govern it, established by the Public Service Commission, but the watchdog to see to it that the criteria are properly and fairly applied, made the organization that represents the employee.

Mr. BARNES: Mr. Mazerall is an expert in appeal procedures.

Mr. MAZERALL: Mr. Chairman, the reason that we have not suggested that both of these be combined is that, first of all, they are written in two different bills and we have accepted these as being reasonable. There is a grievance

procedure embodied in Bill No. C-170 and the appeal procedure is embodied in Bill No. C-181. The present system of appeal is under the Civil Service Act and the new system will be under the Public Service Act.

The institute does have a system of representation for all of its members before an appeal board so that the appellant does not go alone before the Civil Service Commission Appeal Board. He is represented, and we think ably represented, by the staff association of which he is a member.

Mr. LEWIS: But now that you have a legislative framework, what rights would you have to represent a member either before the commission in appeal or before the special appeal tribunal that you represent?

Mr. MAZERALL: My understanding is that it is granted in the legislation.

Mr. LEWIS: I do not recall that.

Mr. BELL (*Carleton*): I think that is one matter upon which we are going to have some clarification when we come to it.

Mr. LEWIS: Could I take you one other step in this? You agree that classification ought to be a matter of bargaining.

Mr. MAZERALL: Yes, definitely.

Mr. LEWIS: May I suggest to you that in many instances it is very difficult to draw lines between the classification and the opportunities for promotion that your classifications set up.

Mr. BARNES: Yes. I think this would certainly be accepted, Mr. Lewis. It is one of these difficult areas. For instance, this is one of the areas where we are a little concerned about the possibility of delegation of authority to departments, particularly in some of the smaller professional fields. There might be an almost inevitable conflict of departmental interest on the one hand and career development for the professional on the other. I can think of professions, such as historians, that number about a dozen or two in the whole of the public service, and the only way in which a career can be developed is across the service at large and for this reason, we feel it is quite important that this aspect be negotiable, and that the departmental convenience of having a quick promotion internally in order to fill a job does not blight the opportunities of perhaps some better qualified man in some other department.

Mr. LEWIS: I will take you one more step in this discussion and come back again to my suggestion.

● (11.00 a.m.)

Demotion occurs of course. Do you think that that should be a matter for your separate appeal tribunal or should that not be a matter for the ordinary grievance procedure of the collective agreement? If I feel aggrieved by the demotion, which is the better road, the more protective road, for the employee to be able to follow?

Mr. BARNES: I think there will be much to be said on either side. It does depend to a certain extent, I think, on the ground rules and the system under which the appeal procedure is being operated. We should not like to see something embodied in a statute where the ground rules for operation of the

appeal procedure are in all ways the same as the ground rules for operation of the present Civil Service appeal structure. Given the choice of those two, I would think possibly the grievance procedure is the most fruitful, but on the other hand, I think that the present appeal system, with some modifications, and put into the hands of an independent body would possibly be as effective as the grievance procedure.

Mr. LEWIS: Would you say that is true of the transfer of an employee, or the discipline of employees generally? All of these things are now excluded from the collective agreement. It may be that I am limited by my own experience, most of us are, but it seems to me that if any of these aspects of the treatment of the employee should form part of the collective agreement, then logically all of them should. I cannot imagine a person disciplined not having the right of the grievance procedure under the collective agreement, or demoted which is a form of discipline of course, or transferred to a job which he or she does not think he or she ought to be transferred to. If you wrote into the collective agreement that promotion is to be governed by the merit system, as set out by the Public Service Commission, so that it is clear that you are not interfering with that—and it is easy to provide for that—do you not think that the whole bundle of the sort of status of the employee in classification, in promotion, in demotion, in transfer, in discipline should be in the collective agreement, subject to the grievance procedure of the agreement, and with the organization statutorily entitled, as of right, to take up the cudgels on behalf of an employee who feels aggrieved?

Mr. BARNES: On the first part, Mr. Chairman, I would certainly agree with Mr. Lewis that this general bundle of conditions of employment should be subject to the collective bargaining process. I think we are completely in parallel in our thoughts on that. I am not sure that we feel that there is a great deal of difference as between the grievance procedure and the appeal procedure in safeguarding these, provided the appeal procedure was a completely impartial machinery, completely removed from all other aspects of the employment picture.

Mr. LEWIS: If I am not taking too much time, may I go to another subject.

Mr. HYMMEN: Mr. Chairman, I have a supplementary question. On this question of the matters which are excluded in the bill, Mr. Barnes mentioned initially and I think Mr. Lewis substantially supported this, that the merit system should hold in regard to appointment. Then, I believe, Mr. Barnes subsequently qualified the statement regarding promotion. Can a case not be made for the proposition that the whole question of appointment, promotion, transfer, demotion, is related to the merit system, some of these being the negative aspect of the merit system. A man could be transferred to his advantage because he has certain capabilities in a different field. I believe that this is all involved in the merit system which under the bill is under the control of the civil service. In regard to the question I asked before you felt that these things should be put into the arbitration procedures and you would restrict then, in essence, the duties and control in the operation of the civil service.

Mr. BARNES: As I was trying to make clear to Mr. Lewis, appointment and promotion are essentially things which we feel should be the field of operation

of the Public Service Commission. But demotion is in effect, discipline. Transfer may or may not be within the merit system as it is defined. Transfer can in some cases be a disciplinary act. I think that one must differentiate between appointment and promotion and some of these other aspects of what could perhaps in some very general form be called the conditions of service, but I think demotion and transfer are not exactly to be paralleled with promotion and appointment.

Mr. LEWIS: Mr. Chairman, one aspect of Bill No. C-170 that concerns some of us is the following, if I may outline it and ask whether Mr. Barnes has any suggestion on it.

The bill provides that the government will initially establish the bargaining units, and the explanation which was given by Mr. Heeney the other day, which is not an unreasonable explanation, was that you are not starting with a *tabula rasa*. You have had organizations in existence; you have had a relationship in existence and you have to start somewhere under the new regime. I am paraphrasing not quoting, if you left it to applications for certification only and you started with nothing, then you would not quite know where you would end up, because you do not know what the board might do, what the demands of the various organizations might be, and so on. I repeat that this is not an unreasonable explanation but it worries me, as I am sure it worries you, that initially the bargaining units are set by the government.

Again from experience, I know that once a bargaining unit is set it is extremely difficult to get it changed because the lines become very rigid. Is the fear that if you left it to application for certification and left it with the staff relations board to make decisions progressively, that that might result in a chaotic condition, or have the relations between the various organizations of civil servants been such in the past that that fear is not justified.

Mr. BARNES: Mr. Chairman, I think I would tend to lean towards Mr. Heeney's empirical approach, to the situation that we are starting off with a system which is at least there in embryo, provided it is amendable. We do not have too many restrictions. As you so rightly say. Once a thing is there it does tend to be rather rigid, and for this reason we do not want too many more rigidities built into the act as well, to make it even more difficult to change. Nevertheless as an initial situation and to get the thing on the road on a service-wide basis, as far as it concerns the professionals, and I must emphasize that this is the only field in which the institute is concerned, we would accept, at least initially, the Heeney approach to the problem, but we do not want any more rigidity built in than is absolutely necessary.

Mr. ÉMARD: Mr. Barnes, do you think that there should be a clause authorizing the association representatives to take up grievances on their own for the workers. I am thinking of these grievances where a group of employees may be affected or in some cases where the employees are afraid to take up grievances. I know that we had such a clause in my union and we had many opportunities to use it.

Mr. MAZERALL: Mr. Chairman, we had this suggestion brought to our attention when we had consultants help us in examining the act. This suggestion was certainly brought forward to us. If we have not suggested it in our

brief then it is because we feel that the association that we now have with the government and with the Civil Service Commission would enable us to do this in any event. Of course, it would be the intention of the professional institute to bring forward such a grievance as you may have in mind. The institute has in the past presented many briefs to the government and I do not see under collective bargaining any prevention built in to prevent us from doing this in future.

● (11.10 a.m.)

Mr. ÉMARD: With your present coverage, would you be entitled to take these grievances to conciliation? I am not thinking of general conditions now, I am thinking of specific grievances. For instance, as I have mentioned before, take the case of an employee who has worked for a boss who is very domineering and scares everybody, I know some even in the federal service. Do you think with your present coverage you would be entitled to take these personal grievances to conciliation?

Mr. BARNES: I think that in the case of professionals one would always have to have the request of the individual involved to process it. I do not think one could envisage a situation where one is making representation on behalf of a group of professionals who had not at least expressed their desire that one should do this. If they had expressed the desire that the institute should take this action, then I would not see that there is anything in the bill as it presently exists that would stop us doing this. This is what we have always done in the past, and as a matter of fact, this is what I would expect we should be able to do in the future. I hope this is so because if it is prevented in the bill, then I would certainly feel there should be an amendment. As you say, it is a very real problem. Fortunately, it is not too frequent in the professional field but it does exist and when it does exist there it can be quite a problem.

Mr. ÉMARD: As general information, could you tell us what is the most important change which you have suggested in your brief? Perhaps to put the question in another way, what are your strongest objections?

Mr. BARNES: I think possibly exclusions; it is rather like comparing apples and oranges, but if I had to pick one I think possibly I would say exclusions.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. HYMMEN: I have a question and it has to do with one that Mr. Émard asked before. You say on page 20 of your brief, paragraph 97 subparagraph 2, "If a grievance on behalf of an employee is eventually upheld it is the belief of the institute that the employer should carry the responsibility for the payment of expenses." If the employer is upheld, who should pay the cost in this case?

Mr. BARNES: As we read it, it appears to indicate that there is a fifty-fifty splitting in the situation as it exists at the moment. If a grievance is upheld, then we feel the employer should pay it; if it is not, then we thought the fifty-fifty situation might not be unreasonable.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KEAYS: Mr. Barnes in answer to a question of Mr. Émard you specified that one of the important grievances that you had was exclusion. By that do you

mean exclusion of employees from bargaining in units? I think you also say that you are of the opinion that the exclusion from the bill must be restricted to those employees who are directly involved in the development of the government's personnel and financial problems? We have had other briefs presented to us and they claim that it is not large enough; that there should be more people allowed to belong to the bargaining unit and that the measure is too restrictive. Can you help the Committee by defining more precisely people involved in the personnel and financial programs who must be excluded from the bargaining unit?

Mr. BARNES: We feel that exclusions as they are presently listed could be interpreted on a very sweeping basis. There is one clause, I do not have my finger on it at the moment, which refers to people who might become management, or might be promoted. If one accepts the philosophy that every office boy has a deputy minister's warrant in his brief case, then this clearly could exclude almost anybody. It is terribly sweeping. Again, looking at the experience in New Zealand, Australia, and United Kingdom in the public service area we feel that if there must be exclusions at all, then they should only be people perhaps at Treasury Board level, a very small minority in the departmental level, who are actually forming or playing a part in the formation of policy.

The mere fact that a man is in charge of a technical directorate should not automatically exclude him because he does not have any significant influence on the pay of the chemists, or the engineers and the conditions of service of the chemists or engineers who may be in that technical directorate. This is a matter of policy decision in a very limited sphere, and we feel that if there must be exclusions they are the people who should be excluded. But certainly the vast majority of supervisory and directory personnel in the professions should not be excluded.

Mr. KEAYS: Who do you think should specify and define those who are to be excluded?

Mr. BARNES: I would say that there must be again a reference to the P.S.S.R.B. in this. It should not be a unilateral decision. If the employer wishes to designate Messrs. A. B. and C. as exempt because they hold appointments x, y, and z, and this is not acceptable to the bargaining agent covering that particular field, this should be capable of reference to an impartial body such as the P.S.S.R.B.

Mr. LEWIS: Under most circumstances. It is under the bill.

Mr. BARNES: Yes.

Mr. LEWIS: I have a supplementary question. The objection on exclusions I imagine that you have most in mind is subparagraph (vii). —There is a general phrase which I found rather offensive. It says "who is not otherwise described in subparagraphs 3, 4, 5, or 6, but for whom membership in a bargaining unit would tend to create a conflict of interest by reason of his duties and responsibilities to the employer". They cover nearly every other aspect in the earlier subparagraph. This might exclude a girl who has an opportunity to see someone's personnel file or something.

Mr. BARNES: We would agree, Mr. Chairman, with this problem that Mr. Lewis has outlined. If one applies the whole family of these exclusion clauses

rigorously, I think you could exclude just about everybody in the public service. Certainly in the professional field you could exclude almost everybody.

Mr. WALKER: Mr. Chairman, a supplementary, if you please. You do not, of course, think that this is the purpose of these clauses.

Mr. BARNES: No, it is not. We feel, however, that if one has to have rigid legislation, then that power should not be there. This, of course, was our original approach which we put forward to the House of Commons committee on the 1962 Civil Service Act. We did not originally envisage a document of this complexity. We were hoping it would grow with maturity, but in the light of what has happened since then, we realize that there has to be more statutory background than might have been acceptable in 1961, but still we do not like a set of exclusions of this potentially sweeping nature being built into statute.

● (11.20 a.m.)

Mr. WALKER: Just this one further question: Behind your objection to the possibility of wholesale exclusion, is your objection to who is designating exclusion.

Mr. BARNES: If these exclusions are laid down in law, then it might be very difficult for an impartial arbitrator, or the P.S.S.R.B. or the appeal procedure or a court of law to do anything other than accept almost any exclusion which the employer might care to put forward under one or more of these headings.

Mr. WALKER: Do you agree that a person who is not excluded one day may be the week following if he becomes attached say to personnel who at that particular time may be part of a negotiating team.

Mr. BARNES: Oh, completely.

Mr. WALKER: There has to be some flexibility. It may be necessary to make some fairly quick decisions on these things.

Mr. LEWIS: They are hardly exclusions by classification; they are not by employees. They would be by some general phrase, that would automatically exclude the person who because of promotion comes within that general phrase.

Mr. BARNES: Perhaps on a transfer, even in the same classification. We envisage the possibility that a man may at one moment be in a position where he should not be excluded and then he could be laterally transferred into an appointment where he might be. I think this is accepted, but we feel that the scope for this should be narrowed down very much more than these exclusions here because the P.S.S.R.B. offers very little protection against a rigorous plan by the employer to exclude almost anybody if the situation develops where there was a case for excluding certain people for any reason which one might imagine. It could be made I think to pass P.S.S.R.B. if they were faced with a case for applying these restrictions.

Mr. WALKER: You certainly would not want somebody who was transferred into a category that might be called management, if you will, to be privy to secrets of your unit.

Mr. BARNES: On this question of management, the mere fact that a man is supervising a group of professionals, in one sense he is management but in the civil service system he has no significant control over the pay or classification of

these people. He may be running a directorate of several hundred professionals but the pay that a chemist, grade 3, gets, and he may have a couple of dozen of them, is not a matter upon which he has any influence whatsoever. So he is management in one sense but we do not feel that he is management in the sense that he should be excluded from the bill.

Mr. WALKER: It really depends on his particular duties.

Mr. BARNES: Yes.

Mr. ÉMARD: Mr. Barnes, you mentioned that every office boy has a deputy minister's warrant in his pocket. Now that the civil servants may enter politics do you not think that it should be raised to minister's?

Mr. BARNES: This will take it even further. The ministers might then be excluded from collective bargaining.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions on Bill No. C-170?

Mr. LEWIS: With that exclusion you would agree?

Mr. HYMMEN: Mr. Chairman, before we leave Bill No. C-170, I have a question which I think is a very important one. It is a leading question and since it was not referred to in the brief, the Chairman may rule it out of order or Mr. Barnes may not care to answer it. This has regard to a presentation made this morning before Mr. Barnes appeared here, and also to another brief I have which arrived in my office several days ago. This is in regard to strike provision in Bill No. C-170.

Since you represent a sizeable group of employees, who I am assuming would prefer the compulsory arbitration, since statement or statements made in the house from sometimes surprising sources suggest that the strike is outmoded and should be outlawed and the same person or persons are unalterably opposed to compulsory arbitration, do you feel that the present bill is correct or incorrect in allowing provision for certification with the right to strike, while at the same time other federal legislation provides the opportunity to other employees in the public service?

Mr. BARNES: No. The basic philosophy, Mr. Chairman, of the institute on this question of the right to strike, and you may realize that as a professional body it is a matter that receives a good deal of consideration, is that we do not believe that the civil servant per se should be differentiated against in his basic right to withdraw his labour. We feel that there is, after all, a fundamental right in the democracy in which we live for a man to be able to withdraw his labour. That is a fundamental right, but as a professional body we should not envisage ever invoking this right. So this perhaps is our position. We recognize that the bill states this right. It also gives us the alternative of using that right which we have always advocated and that is binding arbitration.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions on Bill No. C-170? Bill No. C-181?

Mr. BELL (*Carleton*): I have three separate matters I would like to raise in connection with Bill No. C-181.

The first is, Mr. Barnes, that I do not think the institute has made any presentation to the committee on the subject of participation of public servants

in political activity. Would you like to outline what the views are of the institute in relation to that?

Mr. MAZERALL: Mr. Chairman, the professional institute has always maintained that certainly within the municipal sector, even in the provincial sector, there should be no reason why a federal public servant should be excluded from participation in political activities. At the same time the professional institute has recognized the possibility of involvement in the federal sector. For that reason, there have been a few members of the professional institute advocating political activity in the federal sector.

I have not examined it closely or really looked into all the possibilities of the recent suggestion of allowing civil servants to get into political activity, but I would find it a little difficult at times if my boss were of one party persuasion and I were another. I would find it rather difficult if we were both involved in party politics and attempting to do a job of work in the federal service at the same time. I say this at this time. In the future I might have a different view but perhaps I am a small "c" conservative.

Mr. BELL (*Carleton*): Have you made any analysis, Mr. Mazerall, of the situation in the United Kingdom and how it has worked there? Perhaps at the same time you might mention if you have made any analysis of the new legislation in Ontario on this subject?

Mr. BARNES: I did have some brief discussions this July in the U.K. on their approach to this problem which is based largely on classification where junior levels can engage in almost any sort of political activity; the middle bracket has certain restrictions and the senior level is virtually barred. This is a fundamental approach in the British service. This seems to be a somewhat typical empirical British approach. It seems to work there, and is not, I think, too far divorced from the sort of thing that Mr. Mazerall has mentioned, concerning local politics and so on. The institute only represents people who under the British system would probably be subject at least to certain exclusions in political activity.

Mr. WALKER: Mr. Chairman, a little supplementary. The words "political activity" mean a lot of different things to different people and I am wondering if we should not, if we are going to get into this area, sometime in the questioning, could you find out what they mean by "political activity"?

● (11.30 a.m.)

Mr. BELL (*Carleton*): I would like to pin that down as it were, to the right to participate in the activities of a political association on the one hand, and the right to stand as a candidate on the other. What differentiation is there? I think I would like to ask also if the institute thinks there should be any restrictions at all in the right of wives?

Mr. BARNES: No, none whatsoever on wives.

Mr. BELL (*Carleton*): What about the candidature for provincial or federal bodies? Do you think that such right should exist at any level,—any of the three tiers that you have spoken of in the structure, and if so, and a person is elected, ought there to be a right to return later on to a job in the unhappy event, and this is occasionally experienced by some of us, of being found unelected?

Mr. MAZERALL: With respect to standing as a candidate for a provincial or a federal legislature, I would think certainly in the federal sector it would be

difficult at the present time, but if the country is to seek the best people to aid in the government of the country, then I would say there should certainly be no reason why federal civil servants should be excluded from standing for office. I think there perhaps could be some difficulty in controlling a party itself from the point of view of the party funds, or if you will excuse a layman's view, the basic behind the scenes party policy. I think this would be difficult, but I can see no basic reason why a potential candidate should not be granted leave of absence and a defeated candidate should not be able to take up his work again in the civil service.

Mr. BELL (*Carleton*): If that is the assistance you can give us on that, perhaps I might turn to another matter.

This has been raised, to some extent at least, by Mr. Lewis already on the other bill, the system of appeals. I wonder whether you would care to outline in a little greater detail the nature of the tribunal that you think should be established. This is a matter in which, as you may know, I have a very considerable interest. I think, Mr. Barnes, you are aware that I introduced a bill, No. C-63, on this subject to set up a totally independent appeal panel from which might be drawn the actual adjudicating body for any particular appeal. Would you envisage a panel of that type, totally independent, or would you think it should be in effect, a judicial appeal to a judicial body?

Mr. BARNES: This is a most interesting question. The reason why this brief, Mr. Chairman, was not actually part of our original submission was the length of the discussions which were going on on this matter. Our legal consultants in this area actually went so far as to suggest that this appeal procedure might possibly be vested in the Exchequer Court of Canada, with a judge of the Exchequer Court of Canada being nominated on a month-by-month basis as the appeal judge, and with the full machinery of the appeal procedure being operated before that judge.

Our brief is not quite as specific as that, but we do feel that the tribunal or the judge, whichever it may be, three or one, should operate with the independence associated with the judiciary. Whether or not they are actually judges of the Exchequer Court, they should operate under all the independence associated with the judiciary. The basic ground rules for operation, for actually hearing an appeal, should be based on those normally acceptable for presentation in a Canadian court of law.

Mr. BELL (*Carleton*): Do you know what the present volume of appeals might be? Perhaps that is a question we should ask the chairman of the commission.

Mr. BARNES: I would not care to hazard a guess, Mr. Bell, in this regard.

Mr. BELL (*Carleton*): What matters in your view should be subject to appeal? Would you, for example, allow appeal in the initial competitions for appointment?

Mr. BARNES: No; we feel that initial appointment on the open public competition should not be appealable. This is a matter of the operation of the merit system and the control of appointments to the civil service by the Civil Service Commission.

Mr. BELL (*Carleton*): Is there no possibility of abuse at that level and of discrimination at that level as well?

Mr. BARNES: I suppose the possibility always exists. We have great faith in the system but there is, I think, a rider to that, if departments are given discretionary power to go to open public competition whenever they want to. We have had cases which have led us to believe that it is sometimes a very convenient way of circumventing the appeal system. In other words, the department which could possibly have filled the vacancy by an internal promotional competition in accordance with the basic philosophy of the Civil Service Act, can circumvent the appeal procedure by going to an open public competition from which there is no appeal. This is the sort of thing which I think the commission will have to monitor. If this sort of thing arises out of delegation of authority to the department, then we might well wish to reconsider whether or not the appeal procedure should be applicable to the public competition. But as it has been operating in the vast majority of the cases up to now, we would feel that there is no requirement there, but there may not be an eternal answer to this.

Mr. BELL (*Carleton*): This is my third point. What restrictions do you feel should be put upon the power of the commission to delegate the authority to appoint and to promote to a deputy head? How would you define the restriction and what safeguards do you think should be put in the legislation?

Mr. BARNES: I think, Mr. Bell, that it is most important that this power of delegation be effectively monitored. For instance, there is a phrase in the bill at the moment to the effect that one of the factors which can determine the procedure to be employed is the interest of the service. We feel that the interpretation of that phrase should not be in the hands of any one department. Only an essential impartial body such as the commission could give a meaningful ruling on the interest of the service which certainly may not coincide with the immediate interest of one particular department. These are the type of areas which we feel should not be delegated to department discretion. I do not know if Mr. Mazerall would care to add more to that, but that is an example of the interpretation of that phrase. The interest of the service should not be delegated to departmental discretion.

Mr. BELL (*Carleton*): Where the power to appoint is delegated to a deputy head, do you not think that the most salutary safeguard would be an appeal procedure?

Mr. BARNES: This may well be. We have hopes that the commission will monitor this thing so closely that outside competitions are run only under the same sort of philosophical approach as they are now, that is to say, when there is no reasonable chance of filling the appointment from within the service. But if this power to hold open competitions from the outside appears to be verging on being abused, then I would think that appeal procedures are something which certainly should be considered. I hope that the commission will monitor this closely and watch the departments and act so effectively to stop the departments that this would not be necessary.

Mr. BELL (*Carleton*): Do you think that this power to delegate to a deputy has any dangers in the relationship that exists necessarily between a minister and his deputy?

Mr. BARNES: Of course; this is perhaps why I was emphasizing the fact that the commission must really be prepared to act with its full force to stop this. If there is indication that the authority delegated to the department is being abused, then the commission must come to the defence of the deputy.

● (11.40 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. HYMMEN: Mr. Chairman, I do not know if I am a bit confused at this stage, but on this suggestion of an appeal board and the question of promotion or demotion and designation of authority to departments, would this be entirely separate from the compulsory bargaining legislation?

Mr. BARNES: It is now, Mr. Hymmen. It is really a matter of under whose jurisdiction should this appeal procedure operate. As the legislation presently stands, of course, it would operate under the jurisdiction of the Public Service Commission. We feel it should operate outside that jurisdiction.

Mr. HYMMEN: All right, then. Is not your position somewhat contradictory because you are requesting some of these things be in the bargaining? Promotion and demotion are definitely related. They could possibly both be considered on some other matters by this appeal board which you have suggested should be in the collective bargaining.

Mr. BARNES: In the case of promotion, one of the imaginary cases which we brought up involved a man who was promoted within the service. He was then put on probation in his new classification and if his deputy minister, or his designated officer, felt that he was not satisfactory in this new classification he could be dismissed from the service and there is no appeal from this as it stands now. This we feel is wrong. A man may have had years of entirely satisfactory service in his existing classification. Then he is transferred to some new location or promoted to some new classification; immediately the whole of his previous service and his accumulated benefits in terms of pension are put in peril. It is going to discourage him, and we made this point in 1961; it discourages initiative. We certainly do not feel that a man should be kept in his new classification if he is incompetent, but he should have at least the right to appeal a unilateral decision possibly with the view of being able to revert to his previous status.

Mr. LEWIS: May I ask a supplementary. Why do you say "possibly"? Why do you say possibly be able to revert? Why should he not as of right?

Mr. BARNES: There may be some other solution. His immediate position from which he came may be filled. Reverting to his previous actual position may be impossible but he should be able to move to some parallel position.

Mr. LEWIS: He should not be dismissed—

Mr. BARNES: No, he should not be dismissed.

Mr. LEWIS:—if he has given satisfactory service in another capacity.

Mr. BARNES: He may have had ten years of effective service as a chemist, grade 3, and then he has tried a competition and is promoted to chemist, grade 4. The deputy minister does not feel that he is quite a chemist 4, then at that point he can be dismissed from the service as the act stands.

Mr. WALKER: Then your point would be met if the commission were directed to hear any of these cases where the deputy has acted. Your point would be met there?

Mr. BARNES: Yes. But not the commission. We feel that there should be ideally an appeal procedure outside the commission because officially this act of the deputy minister is a delegated act from the commission. He is acting under the delegated authority of the commission, so therefore the commission is being called upon to judge its own act, once removed.

This is our real point. Our legal advisers have re-emphasized to us that this is in conflict with natural justice and I am sure many hon. members who are lawyers will agree—

Mr. LEWIS: May I follow this up. The appeal does not quite meet the situation. I suggest to you that I can see no reason for the dismissal of the person under any circumstances owing to his failure to meet the requirements of the promotion. If there are other reasons for dismissal, it is a different story. But your opportunity for appeal does not meet that.

The person who has been promoted from grade 3 to grade 4 chemist might find himself that he has not quite got it and might be persuaded that the appeal will not give him any satisfaction. Is there any reason why, together with the appeal, there should not be the provision by regulation or otherwise that he is not dismissed from the service?

Mr. BARNES: We feel that this should be taken care of. This is the point we made in connection with the same provision in the present Civil Service Act. We made this recommendation in 1961 in our brief concerning the present Civil Service Act and we still feel this to be so.

Mr. FAIRWEATHER: I do not understand. If a chemist goes to grade 4 on probation, does he not necessarily keep his permanent level? It seems logical because he is not confirmed in grade 4. He must have some status.

Mr. BARNES: Yes, he is confirmed as a grade 4 but in his appointment he is still under probation and he can be dismissed at the end of that probationary period for failure to meet the enhanced requirements of a grade 4 relative to a grade 3. That can be the end of the road as the legislation presently stands. He does not even have an appeal as to whether or not he has been in fact a satisfactory grade 4, let alone concerning any further rights to revert in the case of his appeal being lost.

Mr. FAIRWEATHER: Then it might be a very cynical way to get rid of people, just promote them.

Mr. LEWIS: To be fair, Mr. Chairman, the commission is given the right to appoint the employee to another position.

Mr. BARNES: The right.

Mr. LEWIS: But it is not a right to the employee; it is an option to the commission.

Mr. ÉMARD: With regard to the merit system, I may be too concerned with details but I would like to know how the merit system will work. Will it be an established system as it prevails in industry today? An employee is appraised at

regular intervals according to a very specific form, or would he only be appraised at the time when there is an opening for a promotion?

Mr. MAZERALL: Mr. Chairman, there is a standard appraisal system now available and in use in the public service that is at least on a yearly basis. This appraisal, in my understanding, is standard throughout the different departments.

Mr. ÉMARD: Is this taken into consideration at the time of a promotion?

Mr. MAZERALL: I understand that it is. In many instances as far as the professional civil servants are concerned, and certainly in the case of research scientists this has to be taken into consideration before promotion can be available.

Mr. ÉMARD: Would you know any of the attributes that are mentioned on the forms?

Mr. MAZERALL: I am sorry; I have not seen them and I do not know just what is listed there.

Mr. BELL (*Carleton*): Should we wait until the Chairman of the Civil Service Commission is before us as a witness?

The JOINT-CHAIRMAN (*Mr. Richard*): I was going to suggest that.

Mr. ORANGE: Mr. Chairman, first of all I have one question; it is a matter of statistics. I wonder if we could obtain the figure on the number of classified civil servants dismissed for any one year period for the last two or three years. I do not think we need to go to a great deal of effort to obtain this figure, but I think it would be useful because we seem to be talking about a lot of the exceptions here, particularly with reference to chemists 3 and chemists 4. However, that really is not my question.

I would like to ask Mr. Barnes a question with respect to the provision in Bill No. C-181 with regard to war veterans. Under the present provisions in the new bill, war veterans will be given preference with regard to entering the civil service. I do not think there is any argument here at all. I just would like to find out his opinion with regard to the use of this on other occasions by war veteran's in open competitions.

In other words, a man may enter the civil service through an open competition, top the list because he is a veteran; after he is in three or four years apply in another open competition and because he is a war veteran he can still use his preference and he can continue to do this during the time he is in the service. I have heard a number of comments on both sides of the case with regard to this particular aspect, and I am just wondering whether the system, excluding initial entry, should be continued with regard to war veteran's preference.

● (11.50 a.m.)

Mr. MAZERALL: Mr. Chairman, if I might attempt to answer that. I do not believe that this is correct. It is my understanding that veterans preference is only available to be used once. It cannot be used every time that a war veteran enters into a competition.

Mr. ORANGE: An open competition. We are not talking about a closed competition; open competition only, sir.

Mr. BARNES: I think, if I might add to that, that if he is actually applying for open competition, although he is in the service, then it applies; but this would appear to be a case again of whether or not the open competition is being used properly. If a man in the service is qualified, and a veteran must be qualified to pass, then there is a man in the service who is qualified to do that job anyhow, and the question arises why there was an open public competition to fill it. I think this is one of the reasons why we are a little concerned about the use of the open public competition in filling jobs in the service. If a man in the service, although he is a veteran, still wins it, he is qualified even without the veterans preference and therefore, that job could have been filled by an internal promotion competition.

Mr. ORANGE: But this still does not answer the question I raised with regard to the situation as it now stands and will continue under the new legislation, about giving the veterans second, third and fourth opportunities for preference in open competitions. I think we must be realistic enough to recognize that once there is a delegation to departments there will be a series of open competitions at least in the foreseeable future, until such time as this personnel evaluation system is brought into full effect so that a department can determine whether or not there is someone qualified in the service to apply in a closed competition. As I say, the situation is that the veteran can apply in open competitions as often as he wishes, and will obtain preference, assuming he is qualified.

Mr. BARNES: As the legislation presently stands Mr. Chairman, I would say that this is acceptable I would hope, for this very reason, that there will not be any precipitate delegation to departments until they are staffed, organized and provided with the necessary data to operate the system as it is meant to be operated. If authority is delegated to the department and they are so unprepared that the only recourse available to them is as you say string after string of open public competitions, then I would say they should not have that authority; it should have remained with the commission until they are prepared. I think this is the real answer to that particular question.

Mr. ORANGE: Another part of this particular legislation which concerns me somewhat is the commission's authority to control the area or the group that may apply in any particular competition. I am thinking again in terms of the people who are, say, in the Department of Fisheries, or a smaller government department who may be at the more junior level, who may wish to move from the west coast to the east coast but because the commission has delegated that only the chief of the registry can come from the employees in eastern Canada or the maritime provinces, this excludes the man who is qualified in that department on the west coast from applying for that particular job.

Mr. BARNES: I would agree, Mr. Chairman very much. This is the point which I think we stressed in our brief which we mentioned a little earlier this morning particularly, as you said, in these more limited professional fields, we have very real doubts as to whether the best development of a career plan is possible without central control from the commission. In the smaller profes-

sions the whole service must be their field of movement and promotion, otherwise, they are terribly restricted.

If a department has a delegated authority to fill a vacancy under almost any geographical or other limitations that it sees fit to apply, this could seriously hamper the development of professional careers in the service. This is why I say we have reservations about delegating this right.

Mr. WALKER: If I might just ask this one question. I am gathering an impression here, and I just want to nail it down, that there is a fear back to the point that Mr. Orange was raising originally. I have the impression that there could be wholesale numbers of people dismissed, because they have not fitted into the new job for which they have tried. Specifically, have there been cases like this? Do you know of any in your own categories?

Mr. BARNES: I have not a specific case list but I am sure the Chairman of the Civil Service Commission could supply this.

Mr. WALKER: I have a number of questions, rather than asking you, I want to ask the chairman.

Mr. BARNES: We feel that this sort of thing should not be written into an act. We are a little concerned about this. We hope that this entire legislation is going to be operated on a very mature basis, but we have to face the realities. We have had senior members of the official side talking about an eyeball to eyeball, claw to claw approach. As long as these expressions are used, then I think we have to be realistic and object to the inclusion in the legislation of very sharp claws, albeit they might be temporarily withdrawn into velvet.

Mr. WALKER: But your fears for the future are not based on any past experience.

Mr. BARNES: Specifically, no. We have not operated under a rigid set of legislation.

Senator CAMERON: I believe Mr. Mazerall said that a staff member was subject to appraisal once a year. I assume that this is at the time of the annual preparation of the budget when each member is assessed on whether or not he will get an increment. This would constitute his appraisal, or is there another appraisal in addition to that?

Mr. MAZERALL: My understanding, Mr. Chairman, is there is an appraisal that goes on once a year—in my particular department, it is going on right now—in respect of all of the technical and professional personnel. It, of course, does have the added advantage that it provides management with the information necessary for its next year's budget.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you, very much, Mr. Barnes and Mr. Mazerall. As suggested by some members, I hope you will avail yourselves of the opportunity to be with us when there is discussion of these bills clause by clause.

Mr. KNOWLES: Not claw by claw.

The JOINT CHAIRMAN (*Mr. Richard*): No; a little velvet I hope. So that we may be able to call on you or you may want to make some suggestions.

Mr. BARNES: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): You are welcome. Now, gentlemen, the next parties to appear before us are the Civil Service Federation and the Civil Service Association of Canada and I would like to know your wishes, whether we should proceed now. It is twelve o'clock. Would you rather wait until four o'clock this afternoon, or this evening? These gentlemen cannot come back on Thursday.

Mr. LEWIS: I would prefer after orders of the day, because we will only have about half an hour now.

The Co-CHAIRMAN (*Mr. Richard*): Let us say four o'clock then.

Mr. WALKER: Are all members in this committee available or do they have other committees to go to?

Mr. LEWIS: I have another one to go to now.

An hon. MEMBER: Is this room available?

The JOINT CHAIRMAN (*Mr. Richard*): Yes, it is available at four o'clock.

Mr. KNOWLES: I do not want to object, but I think we should forewarn ourselves that it is a day on which there might be a couple of recorded votes in the house, and a few other things; something like medicare might come up.

Senator FERGUSON: I have another committee at 3.30, so I will not be here.

An hon. MEMBER: Why should we not take three quarters of an hour now instead of sitting at four o'clock if some members have other committees to attend?

The JOINT CHAIRMAN (*Mr. Richard*): Do members feel it would be better to take this evening?

The Clerk of the Committee will advise members of the time of the next meeting.

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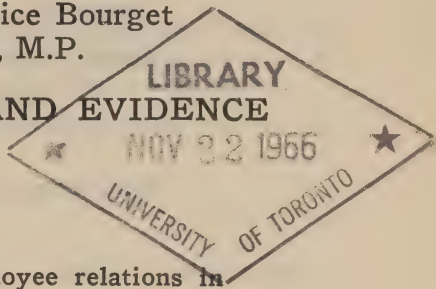
First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 11



Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

THURSDAY, OCTOBER 20, 1966

WITNESSES:

Mr. A. Croteau, Vice-President, L'Association des Fonctionnaires Fédéraux d'Expression Française; Mr. J. M. Poulin, President, Ottawa Local 224, Mr. Leonard R. Paquette, International Representative, Lithographers and Photoengravers International Union; Mr. J. M. LeBoldus, National President, Mr. Antoine Tremblay, Quebec President, Canadian Postmasters' Association; Mr. Francis K. Eady, Executive Assistant to the President, Canadian Union of Public Employees; Mr. James P. Duffy, President, Ottawa Typographical Union, Mr. Allan Histed, Representative, International Typographical Union, Mr. H. G. Jacobs, President, Council of Union Employees, Canadian Government Printing Bureau; Mr. C. A. Edwards, President, Civil Service Federation; Mr. Wm. Doherty, National Secretary, Civil Service Association of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Representing the House of Commons

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	Mr. Knowles,
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	Mr. Lachance,
Mr. Choquette,	³ Mr. Berger,	Mr. Leboe,
Mr. Davey,	Mr. Chatterton,	Mr. Lewis,
¹ Mr. Denis,	Mr. Chatwood,	Mr. McCleave,
Mr. Deschatelets,	Mr. Crossman,	Mr. Munro,
Mrs. Fergusson,	Mr. Émard,	Mr. Orange,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Fairweather,	Mr. Ricard,
<i>Guysborough</i>),	Mr. Hymmen,	Mr. Simard,
Mr. Hastings,	Mr. Isabelle,	Mr. Tardif,
² Mr. MacKenzie,	Mr. Keays,	Mrs. Wadds,
Mrs. Quart—12.		Mr. Walker—24.

(Quorum 10)

¹Replaced Senator Croll

²Replaced Senator Roebuck

³Replaced Mr. Faulkner

Edouard Thomas,
Clerk of the Committee.

ORDER OF REFERENCE
(Senate)

Extract from Minutes of Proceedings, Tuesday, October 18, 1966.

With leave of the Senate,

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator Deschatelets, P.C.:

That the names of the Honourable Senators Denis and MacKenzie be substituted for those of the Honourable Senators Croll and Roebuck on the list of Senators serving on the Special Joint Committee on the Public Service; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The question being put on the motion, it was—

Resolved in the affirmative.

ORDER OF REFERENCE
(House of Commons)

TUESDAY, October 18, 1966.

Ordered,—That the name of Mr. Berger be substituted for that of Mr. Faulkner on the Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, October 20, 1966.

(18)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Deschatelets, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatterton, Chatwood, Émard, Fairweather, Hymmen, Keays, Knowles, Lachance, Lewis, McCleave, Orange, Ricard, Richard, Walker (16).

Also present: Mr. Thomas (*Middlesex West*).

In attendance: Mr. A. Croteau, Vice-President, L'Association des Fonctionnaires Fédéraux d'Expression Française; Mr. J. M. Poulin, President, Ottawa Local 224, Mr. Leonard R. Paquette, International Representative, Lithographers and Photoengravers International Union; Mr. J. M. Le Boldus, National President, Mr. Antoine Tremblay, Quebec President, Canadian Postmasters' Association; Mr. Francis K. Eady, Executive Assistant to the President, Canadian Union of Public Employees; Mr. James P. Duffy, President, Ottawa Typographical Union, Mr. Allan Histed, Representative, International Typographical Union, Mr. H. G. Jacobs, President, Council of Union Employees, Canadian Government Printing Bureau.

The terms of reference of the British Government's Standing Advisory Committee on the Pay and Conditions of Higher Civil Service was tabled before the Committee which agreed to enter same as an appendix to this day's proceedings. (*See Appendix K.*)

There were no questions put to the representative of L'Association des Fonctionnaires Fédéraux d'Expression Française.

The Committee questioned representatives of the following groups in turn: Lithographers and Photoengravers International Union, Canadian Postmasters' Association, Canadian Union of Public Employees and the International Typographical Union.

Members of the Committee were advised that a copy of the By-laws and Regulations of the Professional Institute of the Public Service of Canada is now held by the Clerk of the Committee.

At 12.53 p.m., the questioning of the witnesses concluded, the meeting was adjourned to 8.00 p.m. this day.

EVENING SITTING

(19)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.09 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Émard, Hymmen, Keays, Knowles, Lachance, Leboe, McCleave, Orange, Richard, Walker (12).

In attendance: Messrs. C. A. Edwards, President, and J. F. Maguire, Director of Research, Civil Service Federation of Canada; Mr. Wm. Doherty, National Secretary, Civil Service Association of Canada.

The Committee questioned representatives of the Civil Service Federation and the Civil Service Association on their various briefs.

The Clerk of the Committee was instructed to prepare a list of employee associations showing the membership for each one.

At 9.38 p.m., the Joint Chairmen adjourned the meeting to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 20, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Before opening the proceedings formally, I think all members of the Committee would like to take notice of the fact that this is Senator Bourget's birthday and to wish him a happy birthday.

The JOINT CHAIRMAN (*Sen. Bourget*): Thank you very much, Mr. Chairman.

An hon. MEMBER: Maybe we should sing Happy Birthday.

The JOINT CHAIRMAN (*Sen. Bourget*): We will sing to-night.

The JOINT CHAIRMAN (*Mr. Richard*): The terms of reference of the standing committee on pay and conditions of higher civil service are available and could be included as an appendix to to-day's proceedings. Is that the wish of the committee?

Mr. LEWIS: We did not hear you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): The terms of reference of the standing committee on pay and conditions of the higher civil service—

Mr. BELL (*Carleton*): That is in the United Kingdom. Yes, that is what I was asking about the other day.

The JOINT CHAIRMAN (*Mr. Richard*): That is what Mr. Bell was asking about the other day.

Mr. WALKER: I suggest we do as you suggest.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed? A copy of the Industrial Relations Disputes Investigation Act has been mailed to all members. I suppose you all have a copy. English copies only are readily available. Copies of the Montpetit Report, of course, are in the hands of all members at the present time. This morning—

Mr. KNOWLES: We have all read it! Did you read it?

The JOINT CHAIRMAN (*Mr. Richard*): I stayed up late last night for that.

Mr. KNOWLES: Double all the Post Office, with two or three hundred recommendations.

The JOINT CHAIRMAN (*Mr. Richard*): L'Association des Fonctionnaires, Fédéraux d'Expression Française. Have the members of the Committee any questions to ask the representatives who presented that brief?

Mr. WALKER: Is there a spokesman here?

The JOINT CHAIRMAN (*Mr. Richard*): Have you any further comments to make?

Mr. WALKER: Mr. Chairman, I would just like to say this. I would like the representatives to know that—maybe other members of the Committee have as well—I have taken note of your main objection or suggestion that there appears to be a denial of right to be examined in both languages, either /or, but depending on the language of the person being interviewed. I just want to say that I have taken note of this particular thing. This was one of the main points, was it not, in your brief?

Mr. LEWIS: I think the committee as a whole should take note that they have that right.

The JOINT CHAIRMAN (*Mr. Richard*): The next brief is from the Lithographers' Union. Mr. Poulin. Have the members of the committee any questions to ask as a result of reading this union's brief?

Mr. LEWIS: I cannot remember whether the brief gives us the information as to how many they represent.

Mr. BELL (*Carleton*): I think the brief does state this. Eastern Canada, 4,000 members; western Canada, 300 members; British Columbia, 700. British Columbia is apparently differentiated from western Canada.

Mr. KNOWLES: How many of these are working for the federal government?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Poulin is here. I think it would be much better if he gives the answers. Mr. Knowles, did you want to ask a question of Mr. Poulin?

Mr. KNOWLES: I was asking if he could tell us what proportion of the membership which Mr. Bell just quoted worked for the federal government?

Mr. J. M. POULIN (*President, Ottawa Local 224*): We have 245 members employed in the federal government. This would be out of a potential of approximately 325. This just covers the lithographic industry.

Mr. KNOWLES: And where are they employed?

Mr. POULIN: The Canadian Government Printing Bureau and in the units right across the country.

Mr. Bell (*Carleton*): Amongst your recommendations, Mr. Poulin, I notice your suggestion that the Government Printing Bureau should be transferred from Part 1 of Schedule A to Part 2. Would you like to expand on that to indicate how you think that would improve conditions in so far as your employees are concerned?

Mr. POULIN: Yes. I think that under collective bargaining, if the Printing Bureau were placed in Part 2 of Schedule A, they would be more comparable to the graphic arts industry. We feel that the Canadian Government Printing Bureau is unique, in that it is in competition with the graphic arts industry, and also the fact that they are different from any other government department; they produce a manufactured product; they sell a product even though it is sold for cost and it would set them on a more competitive basis with the graphic arts industry.

Mr. BELL (*Carleton*): The net result of your proposal would be to make the Printing Bureau a separate employer. Then you would seek to come under the Industrial Relations and Disputes Investigation Act.

Mr. POULIN: Yes. This is true. If this is impossible we feel that the bill in its present form could revolutionize the printing industry as far as recognition of craft certification is concerned. There are many different crafts in the graphic arts, and these have been recognized on an individual basis. With Bill No. C-170 not having any provision for craft certification, they feel that this would take away something that we feel very strongly about in the graphic arts industry.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Lewis.

Mr. LEWIS: Mr. Poulin, in the present set-up, is there any conflict between the lithographers and the pressmen, which is your traditional area of conflict?

Mr. POULIN: No. Most people who are familiar with the graphic arts are aware, I think, that merger discussions are taking place. Part of the reason for asking for a separate employer also is the fact that we feel it is the only way we are going to maintain a par with industry as far as our membership in the Government Printing Bureau are concerned, because we have mainly different termination dates in the collective agreements and that. And this we would like to maintain.

Mr. WALKER: This is a supplementary. Do you feel that Bill No. C-170 might depreciate the position you now have?

Mr. POULIN: Yes, we do.

Mr. WALKER: I am referring to holding things on a par with industry. You are doing this right now, I take it?

Mr. POULIN: Yes, we are.

Mr. WALKER: And you feel that Bill No. C-170 may reduce this position?

Mr. POULIN: Yes, we do.

Mr. WALKER: Can you explain how?

Mr. POULIN: If we have all of the graphic arts involved as one group—at the present time there are different termination dates on all of our contracts—if we had some, depending on the mechanics for negotiations that will be adopted under Bill No. C-170, we could maintain this if the proper mechanics were adopted. If they were not adopted, when you signed one collective agreement, then you would have the people who are employed in the lithographic industry starting a contract in advance of the people in the Government Printing Bureau, or vice versa. And I think you would create a differential between the wages in industry and the rates that exist in the Government Printing Bureau, either one way or the other.

Mr. WALKER: And your suggestion, as far as Bill No. C-170 is concerned, to correct this, is to do what?

Mr. POULIN: Either to have craft certification recognized in Bill No. C-170 or have the government classed as a separate employer—the Canadian Government Printing Bureau, that is—classed as a separate employer and put into Part 2 of Schedule A.

Mr. LEWIS: You seem to agree with Mr. Bell that that would mean you would come under the I.R.D.I.A. How is that?

Mr. POULIN: Well,—

Mr. LEWIS: Part 2 of Bill No. C-170 still brings those units under Bill No. C-170, not under another act.

Mr. POULIN: All right. You may be confusing me. Part 2 deals with the crown corporations. I think this is where the—

Mr. LEWIS: That is why I could not follow your agreement with Mr. Bell that that would be the result. It would not be if you put it in Part 2. The Queen's Printer would be made a crown corporation like Polymer of Air Canada or the CNR.

Mr. POULIN: Yes; also, we feel under Part 2 there would be more autonomy as far as the Government Printing Bureau is concerned, probably not as much as a crown corporation but there would be more autonomy rather than coming under the bill itself.

Mr. KNOWLES: This would be a half way proposition as between being included with everybody and working for a crown corporation?

Mr. POULIN: Yes.

Mr. KNOWLES: It would still come under Bill No. C-170 but you would have negotiations with the bureau as a separate employer?

Mr. POULIN: Yes, the Government Printing Bureau would have the autonomy to conduct their own negotiations.

Mr. L. R. PAQUETTE (*International Representative Lithographers and Photo-engravers International Union*): May I add that this is exactly what is happening right now, at the bureau. Over the years, the Canadian Government Printing Bureau has been respecting the changes of working conditions that have been in existence in the collective agreements as we sign them now; so in fact the wage conditions and the working conditions that exist at the bureau follow parallel those changes that we receive in industry. Therefore this set-up is operating already at the bureau and we are asking for continuation of this but with the right of collective bargaining, rather than just an understanding between the Labour Board, Treasury Board and the bureau itself.

Mr. KNOWLES: I believe that in one of the statutes governing the Government Printing Bureau there is a specific reference to wage rates in Montreal, Toronto and Ottawa through which there is supposed to be some relation on the part of your rates to the bureau. Are you afraid that that special arrangement will be wiped out by Bill No. C-170?

Mr. PAQUETTE: Definitely, we feel that under the present context of the Bill what will happen is that the privileges that are now enjoyed by the employees, because of the craft representation or understanding that we have with the Treasury Board, Labour Board and the bureau itself under Bill No. C-170 where we will have to form a viable unit and break down all these classifications, that will certainly hinder the maintaining of the conditions as they exist presently and as they have existed over the years.

Mr. LEWIS: I am not questioning the suggestion that you are making, but just to understand it, and if possible, at the Queen's Printer, for the typos, the pressmen and the lithographers to form a council of unions under Bill No.

C-170 and do the negotiating together for a higher bargaining unit. Have you got a bindery at the Queen's Printer? Are there book binders at the Queen's Printer?

Mr. POULIN: Yes, there are. There is already a council of union employees in existence at the Printing Bureau and there has been for some time. This would be, I believe, our second choice if craft certification is impossible, but we feel very strongly about craft certification because you are going to put down and negotiate a contract in a group, when you have different termination dates somebody is going to miss out on as far as the industry rates are concerned in paying on a par at the time that they go into effect in industry.

Mr. LEWIS: I do not quite follow this termination date. I should know but I do not. Do all your present agreements across Canada, signed together have the same termination date?

Mr. POULIN: On the lithographers and photo-engravers, no, and on all the unions together, no. Some of the unions have two-year contracts, some have three-year contracts.

Mr. LEWIS: Are you speaking about the Queen's Printer or the scene across the country?

Mr. POULIN: Both.

Mr. LEWIS: If you had a council of the various unions at the Queen's Printer, and you had a bargaining unit under that council, then you would have one termination date, would you not?

Mr. POULIN: Yes, you would, but this is where we feel that it could have an adverse effect on some of the crafts who would be partial to the council.

Mr. LEWIS: In what way? I think you ought to explain this a little more so that members will know what the basis for your fears is.

Mr. POULIN: Using the L.P.I.U. as one organization, we go into negotiation at the end of 1967. I believe that the book binders go in, in the spring of '67. In industry, if they sign a three-year contract, which would end up in 1970, it might be difficult to sign a three-year contract on a council basis with the Canadian Government Printing Bureau; therefore, right away you are creating a differential between the lithographic people within the Printing Bureau and the lithographic people in the graphic arts industry. We feel it would be very difficult to maintain the very same time limits and wages and conditions that exist within the graphic arts industry, under a council set-up because you are negotiating; in effect you are negotiating one contract but it is going to cover four or five different unions.

Mr. PAQUETTE: I think also, to add to this, it would be traditionally the type of work done by the various crafts are quite different; they have been distinctive by tradition. The improvement by craft also has been different by tradition and to try to bring them together is something that as a union we have been trying to do and the merger is extremely difficult. There has been traditional jurisdictional differences between the unions and the graphic arts for years, and to try and bring them together and to move them along on the same line at this time, even at the bureau under a council of union employees has been difficult. Though I believe it is possible I still think that there certainly

would be some difficulties and may not resolve the problem to the best advantage of the Canadian Government Printing Bureau.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. ÉMARD: Unfortunately, I did not have a chance to read the brief before, and I came a little late, so I may be repeating some questions that had been asked before I came in. I see on page 2 of the brief, "we would recommend the simplest form and that is recognition to any body of employees which can establish a majority in any department or trade according to the rules established by the government." Has this been discussed before?

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. ÉMARD: Actually what you are requesting is recognition by trade.

Mr. POULIN: Craft certification. We could have, and again speaking for the L.P.I.U., 100 per cent of the lithographic employees of the federal government in our organization, but because you take and put all of the printing trades in one bargaining unit, it could end up that these people would not have the right to have us as their bargaining agent, and this is the fear of our people.

Mr. PAQUETTE: Traditionally, in industry what has happened in the provinces of Canada is that all of the labour force has recognized this craft certification condition that exists in the graphic arts, and it is something that the labour boards across the country are used to and the workers are used to, and all of a sudden a bill comes out and says this is not to be recognized. But there is a possibility that it will not be recognized under the present format as Bill No. C-170.

Mr. ÉMARD: I do not know if it would be for the benefit of the majority of the employees that they should be cut into so many little unions, instead of being in larger groups. I see that even the professionals, which include lawyers, doctors and so on, are joined into one group, for the defence of their rights. If we start to recognize, if the government starts to recognize every individual trade, this is going to mean that there is going to be the same number of groups as we had in the past. I remember myself working for the CPR in the Angus shops at Montreal, and at this time we had I think 16 unions bargaining for us and believe me it was not for the best of our interests. I think it was exactly the opposite, so I wonder, if the trade unions in some cases are not out of date, because I think there is a tendency in most industries to put all the employees in what they call, of course, the industrial organization.

Mr. POULIN: If I might answer you, we are here as representatives of our people and we are expressing the feelings of our people. We would not want to think that it was the intent of the government, in introducing collective bargaining, to introduce something that would have an adverse effect on any group of people, and Bill No. C-170 in its present form is exactly what we feel it would do to our people.

Mr. PAQUETTE: Just one additional point on this, I think that those who know the history of the lithographers and photo-engravers union, know that our particular organization was brought together by a merger of two craft unions, lithographers union which was the former Amalgamated Lithographers of America and the International Photo-engravers Union of America. We are

now embarking upon, and we are going to have a referendum before the end of this year on the possibility of bringing a third craft union into the graphic Arts under one roof and that is the International Stereotypers and Electrotypers Union of America. We also are having merger discussions with the printing pressmen and at the present time the bookbinders, but there is one thing that we fear in the bill is that the government under the bill, in this particular case, is bringing the unions together or trying to bring these mergers about by the very form of the bill, and we believe this is the basic right of the members in those unions, to bring about their mergers rather than by legislation but by the freedom of their own vote, and we feel that this is what is happening with Bill No. C-170. Under the format that the Government is legislating what is a viable group, or telling the unions that this is a viable group, and denying the workers the right to have the unions that they feel will serve them best.

Senator CAMERON: Is it not true that if we accepted the case you are putting forward, we are in effect freezing the status quo as far as the union is concerned, and might not your stand lead to a proliferation of other groups wanting to speak directly in negotiation. In other words, the government might have to deal with more groups than they had in the past.

Mr. PAQUETTE: Not necessarily, when this is already recognized at the bureau. The bureau already has worked out and has agreed; they worked with these various crafts and their problems over many many years, and this is exactly what is in existence now at the bureau. We are not asking for anything different; we are just asking for continuation of what is in existence and what we feel is an advantage to the employees, and the employees believe that also.

Senator CAMERON: Well, is it your feeling that if the printing trades were lumped together as one bargaining unit, under Bill No. C-170, your group would lose something that they now possess in a substantial way?

Mr. PAQUETTE: They could.

Senator CAMERON: Have they ever demonstrated what they would lose?

Mr. POULIN: Lithographers employed by the federal government are working a shorter work week now than anybody else employed in the federal government, the civil service included. It is areas like this that we are concerned about. It is areas like this that our people are concerned about. If you had council certification with individual negotiations, then I do not think we would have a major problem. You would still be able to negotiate your contracts at the same time as you do in industry. You would all be able to stay on a par with our counterparts in industry. This is our concern.

Senator CAMERON: But what you have just said then implies that you are not on a par, you are in a superior position to other branches of your industry?

Mr. POULIN: I do not follow you when you say we are superior—

Senator CAMERON: Well, you said you have shorter hours now than other branches of the civil service.

Mr. POULIN: Within the civil service. We are on a par with the lithographic industry.

Mr. KNOWLES: Mr. Chairman, is it not pretty well established in this country—I know that we can alter principles of long standing—that this

question of what unions employees belong to is for them to decide? Whether or not it is a good case for my friends' union and mine to get together—I happen to belong to a union that is sometimes regarded as being in competition with yours—it is surely for us to decide, not for the government. Is that not the point you are trying to make?

Mr. PAQUETTE: Yes. This is the point we were trying to make before, the right of the employees to join the union of their choice, which has been in existence at the bureau for years, not only at the bureau but in industry. But it has been recognized; this right has been recognized for years. All of a sudden Bill No. C-170 comes out and states that these unions have to form viable groups. I do not believe it is the right of the government to decide this but rather the right of the employee. The right of association still belongs to the employees. And this is what we are attacking in this particular bill.

Mr. KNOWLES: It is a right that is guaranteed in private industry, in statutes such as the Industrial Relations and Disputes Investigation Act. In other words, maybe we should get together, but this is our business. I am speaking now as a union man.

Mr. PAQUETTE: Right. Bargaining units by the government is the same as by an employer, and I think it is contrary to everything that the labour movement stands for.

Mr. ÉMARD: Just as a matter of information, let us say, for instance, that 200 of these employees that you represent here in the civil service would like to join your union and 300 would like to join a rival union. Now, what would happen with your group? Would you let them join the other groups so that they would all be represented by one, or would you insist that they go with you also?

Mr. PAQUETTE: I believe this question would be decided by certification, would it not?

Mr. ÉMARD: Well, this is what I would like to know. You seem to insist that your union gives your members certain special privileges that they have been accustomed to and they would like to remain in the same union. Maybe I misinterpret your brief, but—

Mr. POULIN: Well, it is a question—it is hard enough to get people to pay one dues structure without paying two.

Mr. ÉMARD: No, no, I am not talking about—

Mr. POULIN: You are talking about people who belong to two organizations.

Mr. ÉMARD: And something else, too. As Mr. Knowles was saying, would it not be better for all unions to get together and then apply for certification before they make their requests of the government instead of having the government decide on how it should be—

Mr. KNOWLES: Is it not the right of the employee to decide?

Mr. POULIN: This is the right of the union to decide, not the right of the government to decide.

Mr. ÉMARD: Well, it is the right of the employee to choose the union of his choice, but when it comes down to certification, then it is the Labour Board that chooses which union has got the majority and is going to represent the

employees in a certain industry. Sometimes there are three or four unions trying to get certification in the same industry.

Mr. PAQUETTE: Then we get down to the argument. This is what we have been trying to say. Right now what the bill is stating is that under the laws for certification it seems that all these unions are going to have to apply as one. And this is not the case at all in Canada that is recognized. The unions have always had the right to apply individually, and they have been recognized as craft unions. We do not feel that this certification right, the determination of who can apply for certification, what groups have to get together to apply for certification, belongs to the government, but rather it belongs to the workers.

Mr. LEWIS: I think, if I may say so, that you are overstating the case, because if you had a situation where the craft union history does not apply, it is certainly the legislation which enables the board to decide the appropriate bargaining unit. I think, with great respect, you are overstating your case. Is this not what you are saying? That in the printing industry, as in some other industries, like the railways, the railway industry, and several other industries, there is a tradition of craft division; that the craft bargaining unit is recognized. Under the Industrial Relations and Disputes Investigation Act federally, and under every labour relations act in Canada provincially, you are able, if you have a history of bargaining as a craft, to carve out a craft bargaining unit, and you are suggesting to this Committee that this tradition, now embodied in all labour relations laws existing in Canada, be retained with respect to your craft and the other printing crafts whose members happen to work for the government.

Mr. PAQUETTE: Yes.

Mr. LEWIS: I think when you say that it is always a matter of choice for the group of employees, that is not so. Because if you have got a situation where you do not have a craft history, then, under existing labour relations laws, the appropriateness of the bargaining unit will not take cognizance of the existence of a craft, or the fact that they are carpenters or machinists, or printers even, in some box factory. If you have not had the history of bargaining, the craft situation will not be taken account of. Is not what you are saying that you want to retain here what the labour relations laws across Canada now make it possible for you to obtain outside the government service.

Mr. PAQUETTE: Yes.

Mr. ÉMARD: I said there was a long tradition of craft unions before Lewis formed the C.I.O., too.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Walker.

Mr. WALKER: Just one question. I wonder if you can—this may be difficult—dissociate yourself from the union, the craft you are representing here today, and very objectively tell me this. Do you feel that the Public Service Staff Relations Act, as an act affecting civil servants, not just the ones which you are representing here today, but generally civil servants, do you believe this was the next necessary step in good relations between the civil service and the government, just generally, and if it is an unfair question, do not answer it?

Mr. POULIN: I feel that the introduction of collective bargaining and I think I said in my prior appearance that the government should be commended for the principle in introducing collective bargaining. We have views on the bill itself, but I also said at that time that these would be expressed in the case submitted by the Canadian Labour Congress, and I would like, for a matter of the record, to state that we support the C.L.C. brief very strongly, but I am not qualified to answer questions on the C.L.C. brief because I did not write it.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions. Thank you very much, Mr. Poulin. The next group before us is the Canadian Postmasters' Association. Is Mr. Leboldus here? Come forward, please. I might in the meantime let the Committee know that the Professional Institute of the Public Service of Canada by laws and regulations are now in the hands of our Committee Secretary here. If anyone wants to inspect them sometime they can communicate with him. Are you ready, sir? Are there any questions.

Mr. WALKER: Mr. Chairman, is this the addendum to the bill? Has this been read into the record?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Leboldus will read an addendum to his brief before the period of questions begins.

Mr. JOHN M. LEBOLDUS (*National President, Canadian Postmasters' Association*): With your permission, Mr. Chairman. At the time the brief was prepared in June, notice was so short and not enough time could be given to a detailed study of Bill No. C-170. We still think it is a good piece of legislation, and should not be discarded without giving it a fair trial. Even though the bill confers some unusual powers on the chairman of the Public Service Staff Relations Board, we feel certain that consultations with the various staff organizations should be undertaken and that their recommendations would be heeded.

During the entire life of our organization we have been presenting our resolutions, our views on salary revisions, working conditions and so on to the Postmaster General. We would recommend the addition of a clause to the bill making it possible for our organization to bargain direct with the Postmaster General and his deputy instead of with the Treasury Board.

We are in agreement with the provision in the bill granting all employees the right to membership in the employee organization of their choice. We strongly advocate though the application of the Rand formula. We feel too that the interests of the public would be best served and certainly the interests of the employees better protected, if the Post Office Department were operated as a crown corporation, with the Postmaster General at its head with powers to deal the employee and to set internal postage rates. Our association views the advent of collective bargaining as a milestone in its history. We intend to give the government our fullest co-operation wherever possible in an attempt to make the bill function to the best interests of both our members and the public whom we serve.

Respectfully submitted this 19th day of October, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much. Are there any questions on the brief which was presented earlier, and on this addition?

Mr. WALKER: I think the usual question is how many people do you represent?

Mr. LEBOLDUS: In our original brief, sir, we mention that we represent 7,646 as of July of this year.

Mr. ORANGE: Does this include revenue post offices as well?

Mr. LEBOLDUS: Our understanding of revenue postmasters is postmasters who used to be called 1 to 34. There has been a division now since the first of July and they are in two groups. The one is groups 1 to 23, and the others are grades 1 to 6. These grades 1 to 6 used to be called semi-staff postmasters, but the entire group is revenue, are revenue postmasters in the sense that they are paid out of Post Office revenue. I think there is a misconception even among our own members as to what the term revenue means. It does not mean the revenue of the Post Office; it means that they are paid out of Post Office revenue.

Mr. ORANGE: Are your members civil servants in the normal sense of the word.

Mr. LEBOLDUS: Not the groups 1 to 23. The groups 1 to 23 do not enjoy many of the privileges of civil servants. We get a salary; we get 4 per cent of our annual salary in what is known as vacation gratuity. We do not have time vacation. We do not have sick leave benefits. Some of us do enjoy superannuation, those who earn at least \$900 a year and are not gainfully employed, and this is a phrase that has been worked to death within the office hours assigned to them. The others though, the grades 1 to 6, do enjoy all rights and privileges of civil servants and I do think in effect, sir, they are civil servants.

Mr. ORANGE: These grades 1 to 6 are people who would apply for the job of postmaster through the normal civil service process?

Mr. LEBOLDUS: Yes; in the other group from 1 to 23 those of us who are eligible for superannuation are also eligible for competitions, to apply for positions. I could talk from now to the end of the session on this question, and I do not think that I could tell you all of it.

The JOINT CHAIRMAN (*Mr. Richard*): I am glad that you fellows foresee the end of the session.

The JOINT CHAIRMAN (*Sen. Bourget*): When you say 7,000 do you include also the assistant postmasters.

Mr. LEBOLDUS: That is right, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. WALKER: If I could just make one comment. There is a lot of talk about the Post Office—you mentioned it yourself in your recommendations—and the possibility of it being a crown corporation. What would be the advantage?

Mr. LEBOLDUS: We could operate as a business; we could pay our own way; we would then know exactly who our bosses are. We do not know this way who our bosses are; we know who pays our wages, we do not know really who our employer is. We do not know whether it is the Postmaster General or whether it is the Treasury Board. We make a recommendation for increases to the Postmaster General. We are paid out of revenue; then we are told that this has to be approved by Treasury Board before they can grant us something. We have never gone to Treasury Board with any of our demands. As I have said in this addendum, we have always gone to the Postmaster General and his department head.

Mr. ORANGE: This is not unique in the civil service.

Mr. LEBOLDUS: We are quite an amateur organization as far as labour relations go. We have been sort of the poor relation in the family of civil servants all these years. In fact we have had the appellation given us that we are sort of a political football. We have been kicked around from pillar to post, and we have been accustomed in the past to accept what we get in the way of handouts; but we are trying to wake up; we are trying to make our influence felt and it was with this intention, Mr. Chairman, that I asked for and received your kind permission to appear before this Committee.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. CHATTERTON: I do not know whether Bill No. C-181 would make a change in the status of the position you describe.

Mr. LEBOLDUS: You are referring to the financial administration?

Mr. CHATTERTON: No, to the Civil Service Act.

Mr. LEBOLDUS: I am not qualified to answer that question. I have not made a study of either the old Civil Service Act or the new bill for the simple reason that it did not come into our hands until long after—the hearings were completed before I even got a copy of the amendment.

Mr. ÉMARD: I must say that when I received your brief I was appalled to find that there was an association for the postmasters because ever since I have been a member of parliament I have been working as a union steward on the grievances of the postmasters in my county. You say you have no definite wages. If I understand properly, you get paid on the basis of what the revenues of the post office are.

Mr. LEBOLDUS: Not any more. It used to be the case but not any more, not since 1948. We have what is known as a unit of work standard, and our salaries, the groups are based on the unit of work survey, and the salary then, of course, is based upon the group in which you are placed as a result of the unit of work survey.

Mr. ÉMARD: But there is a basic salary, if I understand properly. I know, because I have had some problems recently in my own county—

Mr. LEBOLDUS: About salaries?

Mr. ÉMARD: No, not about salaries, about post offices. Nobody wanted to take the post offices in the small districts because they were paying some wages like \$17 a week and \$30 a week for those postmasters that—

Mr. LEBOLDUS: Would it interest you to know that the lowest salary for postmaster group I is \$345 a year.

Mr. ÉMARD: I know. It is a real shame. I know exactly what they were getting. There is one in Terrasse Vaudreuil actually, well, we could not find a postmaster there for about three months. Whenever I went around with the postmaster, the fellow in charge, to try to find a place, because everybody was complaining, the women where we went, said, "What is the use in working as a postmaster? I can get more money renting my room". This is true. So I think that conditions are really awful and I do not know how you could have such conditions at this time. I know it is not your fault—

Mr. LEWIS: Have you read the Montpetit report?

Mr. ÉMARD: I read only what is in the paper this morning. I know it is really awful. I wonder if it is not the fault of the unions, of the labour movement in such a case. It seems to go after all the big things, propositions, and we forget the poor people, where the conditions are very bad.

Senator CAMERON: How many hours a week, and how many weeks a year, would this \$300 a year employee have to work?

Mr. LEBOLDUS: Well, weeks, as many as there are in the calendar.

Senator CAMERON: How many hours per day?

Mr. LEBOLDUS: I would say that perhaps an hour or two a day, depending on the arrival of the mail. Some of them—there is no hard and set rule for post office hours in such small communities because it depends on the mail arrival. Sometimes they have three mails a week, so that would mean that they work a couple of hours on that day. But the fact remains that they are on call every day of the week. If somebody comes in on an off-day, on a day when there is no mail and wants a five cent stamp, you have no choice but to give it to him. And this is the case in all small town post offices. Many of us live in the same house in which the post office is contained. So, someone comes in the front door; they hear you at the back; they know you are there, well, they want a parcel. If you do not give it to them, there is hard feeling. And another thing, Mr. Chairman, a member mentioned something about renting. The groups 1 to 23, the salaries that they get include the providing of accommodation, light and heat. This is all included in the salary. This is another phrase that has been worked to death over on Confederation Heights as all-inclusive. Whenever we ask for something for rent or light, "no this is all-inclusive. This is part of your salary."

Senator MACKENZIE: What hours are mandatory for the opening of post offices of the kind you mention?

Mr. LEBOLDUS: The small ones?

Senator MACKENZIE: Yes.

Mr. LEBOLDUS: I do not think there are any stated hours. They are very very small offices, sir.

Senator MACKENZIE: So if they go off on other business or activities, the services are not available for the selling of a five cent stamp.

Mr. LEBOLDUS: The usual procedure, though, is that some member of the family is in the neighbourhood.

Senator MACKENZIE: For how long?

Mr. LEBOLDUS: All day. My own office is—I am in group 23 and just in this group, so that I am very keenly aware of the problems. And my hours are from 8:30 to 12:00, from 1:30 to 5:00, five days a week. And on the sixth day, the hours are from 8:30 to 11:30. Now, that adds up—

Senator MACKENZIE: Now, what happens if your place is not open during those hours? Do you lose the job?

Mr. LEBOLDUS: Well, I am under obligation to be there or to have someone there. If one of my superiors should happen to walk in and the office is closed, well, to put it mildly, I would have a bit of explaining to do.

Senator CAMERON: You have no allowance for vacation time?

Mr. LEBOLDUS: No, except the 4 per cent by way of vacation gratuity. But if I need help in my work, except for a Christmas allowance of 55 hours, I have to supply that help too out of my own wages. I am not there to-day. The girl who is working in the post office while I am away is paid out of my own salary.

Senator CAMERON: What size community would this be in which you are—

Mr. LEBOLDUS: We have about 750 people.

Senator MACKENZIE: You can delegate your duties in terms of service.

Mr. LEBOLDUS: Yes, to an assistant.

Senator MACKENZIE: Yes.

Mr. BERGER: I would like to ask you something. I am working actually on four or five cases of postmasters in my own riding. I read your own letter, which says in part, "We intend to give the government our fullest co-operation wherever possible". That phrase "wherever possible" puzzled me a little bit. This "Christmas card" which I am receiving every day in the mail from the postmasters from Montreal does not help me too much or encourage me to keep on working trying to do something, because you are trying to give your fullest co-operation, but these "Christmas cards" come in every day and say, "Act, or otherwise". It is this "wherever possible" that bothers me.

Mr. LEBOLDUS: Do not confuse us, please, with the Canadian Union of Postal Workers.

Mr. ÉMARD: Mr. Chairman, this is not meant as a criticism, but apparently your association is very weak. Is that not a fact?

Mr. LEBOLDUS: Yes in terms of labour unions, sir, and so on, we are, as I say, the stepchild of the—

Mr. ÉMARD: Now, have you ever approached the C.L.C. or any union or the Civil Service Association with regard to joining or getting some help from them?

Mr. LEBOLDUS: Yes, we have, and I am happy to say that we have had very good relations with the Civil Service Federation and the Civil Service Association. Both their presidents have gone out of their way to help us in any way they can; especially in the past few months, our relations with the Civil Service Federation have been excellent.

Mr. ÉMARD: The past few months I can understand, but I read that you have been in operation for sixty-two years. Looking at the results, I judge, I see that the wages and working conditions that your employees enjoy, especially referring to my own county, are a shame really. I certainly hope that your association will contact some stronger body so that you can get good working conditions. I do not think that this can be done on your own to-day. It is not as easy as it was in the past to just form a union and be able to compete, especially with an employer as strong as the government that knows all the ramifications and can really put on the pressure too. Is it your intention to really join a stronger party or is it your intention to remain on your own?

Mr. LEBOLDUS: We have had talks with the Civil Service Federation with the possibility of affiliation, but there is one stumbling block and this is the

question of cost. If it is going to cost us \$2 or \$3 per month per member to join these associations, we do not know what to do. It is very difficult to expect a man that gets \$600 or \$700 a year to pay \$3 of that by way of membership fees.

Mr. ÉMARD: I will tell you how you may proceed if you want to.

Mr. LEBOLDUS: I will be glad to have advice.

Mr. ÉMARD: You should offer to pay dues on a percentage basis, so that the more they raise your wages the more the unions are going to profit.

Mr. KNOWLES: How do you get these jobs in the first place?

Mr. LEBOLDUS: As a member of parliament, Mr. Knowles, I think you should know something about this.

Mr. KNOWLES: I suspect how they are got.

Mr. LEBOLDUS: In the past that was the way they were obtained all right.

Mr. KNOWLES: What does "that" mean?

Mr. BELL (*Carleton*): Was that for the benefit of the former postmaster general who has just come in.

Mr. KNOWLES: I presume that "that" refers to political patronage.

Mr. LEBOLDUS: Yes, but we have done what we can to get away from political patronage, Mr. Knowles. We feel that recent appointments are made outside of that sphere. Certainly appointments to positions in grades 1 to 6 are made outside of the sphere of political patronage. These positions are open to competition within the service.

Mr. LEWIS: Are these full time postmasters?

Mr. LEBOLDUS: Yes, these grades 1 to 6 are full time postmasters, definitely.

Mr. LEWIS: They would not, I hope, get only \$700 a year?

Mr. LEBOLDUS: No; my own salary, and I do not mind telling you, my own salary is \$3,805 per year.

Mr. ORANGE: Do you provide accommodation?

Mr. LEBOLDUS: Yes, I provide my keep and the space out of that.

Mr. LEWIS: And you give full time to it?

Mr. LEBOLDUS: That is right. These hours that I have mentioned to you are kept religiously. In fact, as I say, it is 5 o'clock and someone comes in and wants something, what are you going to do about it? You live in a small town; you have to live with the people.

Mr. ORANGE: What is the highest salary paid from grades 1 to 6?

Mr. LEBOLDUS: I have the president of the Quebec branch and he is a grade 6; perhaps he could give us information, Mr. Chairman, about what his salary is.

Mr. TREMBLAY: \$6,020.

The JOINT CHAIRMAN (*Mr. Richard*): \$6,020.

Mr. LEWIS: Is that the top of the postmasters?

Mr. LEBOLDUS: Of this revenue group.

Mr. LEWIS: Including light, heat and accommodation?

Mr. LEBOLDUS: No. Of course, there are some in the lower grades, from grades 1 to 23 that are occupying public buildings. These are little 24 x 24 or 24 x 28 that have been erected in areas of high unemployment in the past few winters, and they occupy these buildings.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Leboldus, for the information of the Committee, would you give us the name of the gentleman who just spoke.

Mr. LEBOLDUS: Mr. Antoine Tremblay, President of the Quebec Branch from La Malbaie, Quebec.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Antoine Tremblay. Mr. Knowles the same question?

Mr. KNOWLES: Is there any reason why all these appointments could not be put outside the spheres of political patronage? I ask this question because of the act. Is this not where your trouble lies, if you get a job as a result of political patronage, then you have to go to the same people who got you the job if you are dissatisfied.

Mr. LEBOLDUS: We would be very happy, Mr. Knowles, to have all appointments on the same basis as the appointments to grades 1 to 6: that is, we did ask that in a brief that we presented last August, that all postmasters be eligible for competition to positions within the service.

Mr. HYMMEN: Mr. Chairman, on a point of order here. I think we appreciate the opportunity to hear Mr. Leboldus on two occasions—this is the second occasion—who presents certain recommendations on behalf of the collective bargaining bill. I just realized that we all have just received a copy of the Montpetit Report which was tabled yesterday, which has gone into the whole matter in much greater detail than we can do in a cursory examination here. I have not heard that parliament has referred the Montpetit Report to this Committee. While I am not attempting to cut off discussion here, I wondered whether a cursory examination would put certain light on to the whole matter which is probably excellently covered in the Montpetit Report.

The JOINT CHAIRMAN (*Mr. Richard*): I have had the same feeling. I was wondering how far we would go into this line of questioning this morning. Hon. members will appreciate, however, that if we do, it is something that we will have to come back to when we do study the Montpetit Report which I suppose will be before this Committee. I would hope that we would limit ourselves to the matters involved in the bills before us.

Mr. KEAYS: Mr. Chairman, there has been a question of political patronage raised here and I think we should have it cleared up. I would like to ask a question at this time from the witness who recommends that the Post Office Department be run as a crown corporation. In a crown corporation, and in fact in any corporation, many nominations are made to any positions. They are usually the prerogative of the president of the corporation. Therefore, if in the Post Office Department the Postmaster General acts as the president of the department, what objections have you if he makes the nominations? Now, I am

sure that none of the nominations made by minister are on a political basis. On that basis, why would you be against this nomination?

Mr. LEWIS: This is quite an interpretation on political patronage, I must say.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Leboldus have you any answer to this?

Mr. LEBOLDUS: No; I just do not know how to answer that question.

Mr. FAIRWEATHER: I think we might tidy this matter up. Once patronage operates, have you not tenure on good behaviour until a certain age.

Mr. KNOWLES: Before the next election?

Mr. FAIRWEATHER: No. No, this is the point I want to make.

Mr. LEBOLDUS: I do not know of any situations in the immediate past where a man has lost his position just due solely to the change in government. I know of cases where people have lost their positions due to political activity in an election that has just gone by, and we do not stand up and fight for these people. This is their own funeral; if they do not know enough to keep their noses clean during an election that is their fault, not ours.

Mr. FAIRWEATHER: Therefore, to put it briefly, changes in government do not affect your tenure?

Mr. LEBOLDUS: Not if you stay out of political activity and tend to your business.

Mr. HYMMEN: Mr. Chairman, Mr. Leboldus has introduced this whole question of political activity. There is a report and it will be studied subsequently by the Committee. Maybe he would explain this a little further. To what extent should a postmaster, or any member of the postal department in any community, no matter whether it is a small operation in a rural area or not, take part in political activity aside from the point that they do like everyone else have the right to vote?

Mr. LEBOLDUS: Well we have no official views sir, on this question, but I can give you my personal view. If we are going to deal with members of parliament, the Postmaster General or any elected representative, when requesting salary revisions and things of that nature, I feel I have a better case by far, if I come unencumbered rather than having a man across the table from me, who worked against me or against my party in the last election. I think there are two strikes against me before I ever come to the table.

Mr. LEWIS: Do you think it is right that there should be two strikes against you? Have you not rights as a citizen?

Mr. LEBOLDUS: Well, I have rights, but I have this in my head when I go into the polling booth—and this is something that you cannot take away from me.

Mr. LEWIS: But have you not rights as a citizen? Why should it be two strikes against you if you happen to have worked against me in an election? What right have I to hold that against you?

Mr. LEBOLDUS: Well, I do not suppose you have any right, sir, but I would think that a man would have to be more than human not to have certain feelings, when he sees someone who has worked against him. Is that not a natural human reaction? There may be the odd angel among humans but I do not think that there are very many.

Mr. LEWIS: I do not agree that one has to be angelic to recognize the democratic right of a neighbour to exercise his right. Do you think that that is angelic, something superhuman?

Mr. KNOWLES: Well, every government since I have been around here, has claimed to be more than human.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator CAMERON: My friend here has raised the point that some of us only received this; I got this half an hour ago. All I know about it is what I read in the *Globe and Mail* this morning.

I am one who has been very critical of the postal operations for years, and I can document the case. It seems to me that a lot of the trouble that we are having today in the postal service is because of the breakdown of human relations, because of an archaic administrative organization. I would hope that after we have a chance to read this document, then we might have a further opportunity of questioning the people concerned. Will this be possible?

The JOINT CHAIRMAN (*Mr. Richard*): Well, Senator Cameron, as you know, Mr. Leboldus represents the Canadian Postmasters' Association and you will have the opportunity later on, either this day or tomorrow, to interview larger groups of the Canadian Union of Postal Employees and Letter Carriers to whom I think that type of question will be directed more usefully. Is that not correct, Mr. Leboldus?

Mr. LEBOLDUS: Well these people represent postal employees in areas other than small rural areas, and perhaps in that respect that may be so.

Senator CAMERON: Well, this is all I want to know. They will be here?

Mr. LEBOLDUS: Yes.

Senator CAMERON: I am sorry I will not be here tomorrow, although I would like to be here, very much.

Mr. HYMMEN: Mr. Chairman, there is another point, if I may be permitted to raise it. Was it not one of the postal groups that wrote a letter to the Prime Minister requesting that no decision be made until after the Montpetit report is tabled?

The JOINT CHAIRMAN (*Mr. Richard*): That is so.

Mr. HYMMEN: Now I have no objection to the delegation coming, but I assume that it is humanly impossible for any member of this committee to read the Montpetit report and become fully acquainted with it overnight. Now, we will probably have to recall these people afterward in any case.

Mr. LEWIS: Perhaps we should have them next week, Mr. Chairman. They themselves will need time to study it as well.

The JOINT CHAIRMAN (*Mr. Richard*): I think that may be the case then. If you will leave it with the steering committee, Mr. Lewis, I think we can arrange that. Are there any other questions?

Senator CAMERON: Mr. Chairman, I have one more point. I think in a report to the postal department it was stated there was some 12,000 demerits or penalties for infractions of the rules. Well, on the face of this, there is something wrong with the organization—if this is true.

Mr. WALKER: Mr. Chairman, does everybody agree with me that there is some danger, when examining witnesses who are appearing before this committee, the Public Service Committee, of getting into another field entirely, namely, the detailed examination of the conditions in the postal service as related in this Montpetit report. I think that the Chairman will have to have the wisdom of a Richard to tell us when we are getting into an area that, in fact, has not been referred to this Committee at all. We are examining public service employer and employee relations. This is a very interesting subject, perhaps much more juicy than some of the other subjects referred to us.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, I would suggest that we spend as much time as possible on the bills so that we can decide about them as soon as possible. I would much prefer, providing the asides are not too many, that we not have to come back, maybe in the spring, to study those matters which we could deal with now, provided the members show a little bit of aptitude when questioning these men while they are here.

Mr. WALKER: Well, so long as it has a direct relation to the subject matter that we are discussing.

The JOINT CHAIRMAN (*Mr. Richard*): Well I think the subject matter, Mr. Walker, is pretty large, when we are studying public service bills.

Mr. KNOWLES: Well, it may well be, Mr. Chairman, that the Montpetit report does not relate to the matters that this present witness is concerned about; still it does relate to Bill C-170. It is mentioned several times, and is almost the basis of the recommendation. So when we have before us the other two postal groups or postal unions, it seems to me that at that point the Montpetit report is definitely part of our discussion.

The JOINT CHAIRMAN (*Mr. Richard*): I believe so. Are there any other questions? If not, thank you very much Mr. Leboldus.

Mr. LEBOLDUS: Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): The next group is the Canadian Union of Public Employees and I will ask Mr. Eady to come forward. Mr. Eady is ready to answer any questions on the brief that was submitted some time ago.

Mr. BELL (*Carleton*): Mr. Eady, when you were here before you told us that the Canadian Union of Public Employees had no employees in the Government of Canada or in any federal crown corporation.

Mr. EADY: No. We have some members in federal crown corporations, Atomic Energy of Canada, for example.

Mr. BELL (*Carleton*): How many?

Mr. EADY: Very few. I could not tell you the membership but it is at the Pinawa reactor in Manitoba, as certified under the Industrial Relations Act.

Mr. BELL (*Carleton*): Since you were present, have you had the opportunity of reading the brief which Mr. Arnold D. P. Heeney, Q.C., presented to the committee which dealt with some of the basic matters, I think, that you raised in your brief?

Mr. EADY: I have not read the full brief but I have read the communications that were put out and the newspaper reports on it.

Mr. BELL (*Carleton*): And have you any comment about certain of the statements which Mr. Heeney made as to the reasons it was decided by the preparatory committee to establish the collective bargaining on the basis of Bill No. C-170 rather than the expansion of the Industrial Relations and Disputes Investigation Act.

Mr. EADY: Yes, Mr. Bell. With the greatest respect to Mr. Heeney, our union does not agree with his assessment of either his own preparatory report or this bill. We see no reason why there should be a basic difference in the methods of collective bargaining for the public service, at any level, and the private sector. We have certain objections in detail to the bill which we set out in our brief, so far as I and my organization are concerned. Mr. Heeney did not make a case to say why the Industrial Relations and Disputes Investigation Act should not have been amended to make this provision. The reason we say this is twofold. First of all, our experience in other jurisdictions, and particularly Saskatchewan, has proven to us that this can be done. The second thing is that we see no reason why even some of the exemptions that have been made to people who can be represented on this bill should be made. It is kind of ironical to our organization to read that soldiers in the West German army—in 1945 we were supposed to begin lessons on democracy—can now join the Public Employees' Union which is affiliated to the international organization, to which our union is. When I was in Sweden, I was very familiar with the Swedish officers' organizations and the N.C.O.'s organizations, which are affiliated to the Labour Congress, and yet all these types of people and police and so on are exempt. Now the whole concept of this is that not only should there be something different between the public employee and the private employee, but also there is some special type of relationship for certain types of government employees which somehow take them out and, in addition to that, there are whole areas which will not be subject to collective bargaining. If you examine, as I am sure the committee has, the bill very carefully, there are whole areas which would normally be a matter of trade union negotiation which are a matter of unilateral decision by the Civil Service Commission, the Treasury Board, or the ministers involved. So, with the greatest respect to Ambassador Heeney, our union does not agree that in the case he has made that this is a superior form of collective bargaining for the Civil Service.

Mr. BELL (*Carleton*): He made two or three points on which I would like to have your opinion. He indicated, in the first instance, that the I.R.D.I. Act would have required very substantial amendment, in the view of the preparatory committee, in order to protect the merit system. Would you agree with that view?

Mr. EADY: No, I do not think so. Again, I agree partly that the act would need substantial amendment in order to make it fit because there would certainly have to be certain changes in its procedure. But we have no evidence

at all that the merit system in the Saskatchewan civil service has been altered by the fact that they are operating under the act, and I see no sign that the recent Quebec Labour Code, Bill No. 54, has had any effect on the merit system in the province of Quebec. Therefore, it seems to prove that this can be done in other jurisdictions without unduly putting the government as an employer at a disadvantage.

Mr. BELL (*Carleton*): May I understand you there. Do you believe that the method and technique of appointment should be a matter of collective bargaining?

Mr. EADY: I think that the employee organizations, if the system involves, for example, all interviews, examinations and so on, should have the right to make representation on the way this type of thing goes on. I am saying, for example, Mr. Bell, that if you, personally, were a civil servant, that we should be able to question what happened in your examination and so on, but the organization should be able to make representation on the criteria which you use, the type of examination set and their suitability for assessing. We ask this in other sections. For example, in hydro jurisdictions, we ask the hydro commissions to consult us on the methods of examination that are used for trades and office employees. These employers do this, and consult with us—but not about the individual examinations because this would infringe on the merit system, which is not our intention. So we agreed, obviously, with that system as opposed to a system of patronage.

Mr. BELL (*Carleton*): I will take you to another field in connection with this. Would you be satisfied to have the Minister of Labour carry out the duties in relation to collective bargaining in the public service that he does in collective bargaining in the private sector?

Mr. EADY: As we pointed out in our brief, at least when you operate under the Minister of Labour system, which is exactly the way it is in Saskatchewan and Quebec, you have the possibility that it is another minister who is responsible. One of our objections in detail to this bill is the power of the Chairman of the Public Service Board. He really combines the authority of a chairman of a labour board with that of the minister. We know there are disadvantages but I cannot see how you can avoid them. If you are going to ask for a system of collective bargaining which is under government regulation some minister is going to have to be responsible. We would rather see the power divided between two ministers. If I might give an example, the Quebec hospital strike involved the Minister of Labour in trying to settle it and the Minister of Health in his capacity as employer.

When we had disputes in Saskatchewan involving the employees in the government hospitals we were dealing with two ministers, namely the one who was the arbitrator and the other who was the employer. I realize, of course, that the ministers consult and it is bound to be to a certain disadvantage, but you cannot avoid this, I think, in the government service. We would rather have the function divided and take our chance with the Minister of Labour of the day rather than have the concentrated power which the Public Service Chairman has under this bill.

Mr. BELL (*Carleton*): I think, Mr. Eady, the other point is that there would be amendments required, and extensive ones probably, to assure continuity of

the public service, at least in those areas where safety and security is involved. Would you agree with him on that, and if so, what would the nature of the safeguards and precautions need to be?

Mr. EADY: I now speak, bearing in mind that our union, of course, has this problem even in a municipal strike where, for example, you have the Metropolitan Toronto Water System. We just pulled our people out of there without making any arrangements with Chairman Allen. There could be real trouble. The whole system could go out of kilter. It seems to me that what you have to do is to make agreement before there is a dispute during your collective bargaining on the arrangements that you make for safety. This is done in a much wider sense than the public realize by industrial type unions. I know, for example, that in the case of the steelworkers and the mining industry, if they are going to strike a mine, they sit down with mines management and make arrangements for safety before they withdraw the men. I think this same thing would have to be done. When we have had disputes with hydro authorities we have always made arrangements in connection with emergency service in case there is trouble, if you do not do this you are not a responsible union organization. I think you have to sit down and do it. I agree with Mr. Heeney; I think it has to be negotiated outside or before you reach the stage of the right to strike because it is very difficult to settle these matters when you are right on the deadline of a strike.

Mr. ÉMARD: Your brief mentioned that you had 100,000 members in 700 locals in all ten provinces. Would you give us a breakdown, by provinces, of your membership?

Mr. EADY: I could not do that, but I am very happy to tell you, Mr. Émard, that there are 5,000 more in the province of Quebec now because we just won the Quebec Hydro. There are approximately 44,000 in Ontario and approximately 17,000 in the province of Quebec. From memory I cannot tell you the breakdown for the other three regions. There are five regions in our union: Western, which is B.C. and Alberta; prairie, which is Manitoba and Saskatchewan; Atlantic is one region, and then Ontario and Quebec. There are 42,000 in Ontario; 15,000 to 17,000 in Quebec, and the rest divided between the other three regions.

Mr. ÉMARD: How about Manitoba and Saskatchewan?

Mr. EADY: I would hazard a guess of about 8,000 or something like that. I am fairly sure of the Ontario and Quebec figures but without reference to my records I could not tell you the breakdown for the other three.

Mr. KNOWLES: Mr. Chairman, when Mr. Bell was listing the changes that Mr. Heeney thought would have to be made in the I.R.D.I. Act to accommodate it to the public service I think he omitted one. It is not one I agree with and I dare to hope that Mr. Bell does not agree with it either but perhaps we should have Mr. Eady's comment. I think that it is fair to say that Mr. Heeney also argued that the I.R.D.I. Act would have to be amended to include provision for arbitration.

Mr. EADY: Yes, it is certainly involved. We, of course, have taken the stand against the form of compulsory arbitration that is contained in this bill. If you take the detail of the bill we object to the time the choice has to be made. I

would just like to enlarge a little on what was contained in our brief. If we start to organize a group of federal servants under this act, before we do so we have to make a decision whether we are going to accept arbitration or we are going to ask the right to strike. This is strange to us because we would expect that it would be the employees whom we organize who would be given this choice. This is why in our brief we ask that at least if you are going to give this choice that the choice be exercised after you have the employees in the group concerned organized.

The second thing is, of course, that we do not really agree with it in any case. The reason is, Mr. Chairman, that we are not a "strike happy" union. I think that the record of the Canadian union and the number of strikes we have is very, very small. The only reason we stand strongly for the right to strike, including in the public service, is that when you consider the power of a federal government as an employer, and I think this is a problem which the postal workers have had to face, the power of the union without the possibility of a last resort to strike is going to mean that the balance of power at the collective bargaining table is not going to be very equal. Therefore, we are opposed to compulsory arbitration except, of course, as is usual in all jurisdictions, for the settlement of grievances during the term of a contract.

Mr. KNOWLES: You would not agree then with Mr. Heeney that it would be necessary to amend the I.R.D.I Act?

Mr. EADY: No, because we take the position that it is not necessary. The only thing you might have to do, Mr. Knowles, through you, Mr. Chairman, is that you might include a clause in there, providing for both parties to apply for voluntary arbitration. We have agreed with individual employers in our jurisdiction to do this from time to time. When both people say: "Well this is not worth an industrial dispute", we are prepared to put it to a mediator and accept the hearing; as a matter of fact this was how the dispute in Corner Brook, Newfoundland was settled. A union and a hospital agreed that the conciliation board should in fact be an arbitration board. But it was done on that occasion by agreement between the parties.

The JOINT CHAIRMAN (Mr. Richard): Mr. Walker.

Mr. WALKER: This is a question subsequent to the line that Mr. Bell was speaking on. Am I interpreting your remarks correctly when I say you, basically, would trust the independent judgment of a federal minister of labour, under the I.R.D.I. You would trust his judgment more than an independent chairman of the Staff Relations Board who was in no way connected with the government?

Mr. EADY: Well, you see, Mr. Walker, I am not so sure that he is not connected with the government. We have got to see who the appointment is going to be, but it is very clear that the appointment is being made by the government.

Mr. WALKER: But there is a board.

Mr. EADY: Yes, there is a board, but the powers of this chairman are very, very large, much larger than the powers of any chairman of any labour relations board that I am aware of in Canada. Now we have watched changes of government at the provincial and federal levels of all the political parties that

are represented on this Committee. And while we might have had, on occasion, to dispute with ministers of labour, over a particular decision, over all, we have a major ground for complaints about the way we have been treated by the ministers of labour of the different political parties. Just occasionally we have had disputes for example, in naming, say, a judge, to chair a hospital board when he is a member of another hospital board; this type of thing. But otherwise, we have been reasonably fairly treated. Our main complaints have not been on this type of thing but on delays. We are a little concerned about the powers of the chairman here because, in a way, with his long tenure, which we think is too long, as we pointed out in the brief, the powers that he has in the act, and the fact that he is a direct appointee of the federal government, means that, however high the calibre of the person appointed, he is bound by the nature of things to be a government appointee who is going to have the ear of the government, in much the same way as a deputy minister.

Mr. WALKER: Your feeling, I take it, then, is that this objective person will in fact be representing the employer, even more so than the minister of labour.

Mr. EADY: Yes, because we have the advantage, gentlemen, that if the minister of labour, federally does something which we feel is grossly unfair, we can come to any one of you, or collectively, or to the Senators represented here and ask the questions in the house and so on; whereas this person is going to be quasi independent and you are not going to be able to have the same detailed control over him unless we misread the bill, as you would over the minister.

Mr. WALKER: This is an interesting point, because, I think it is completely alien to the whole philosophy of free collective bargaining, to have a representative of the employer in charge and finally ultimately responsible for what happens in negotiations; but basically, if I read you right, you would prefer to put this matter in the hands of a minister of labour who represents a government, and you would prefer to see subsequent parliamentary action—we have recently had it in Saskatchewan—you would prefer to see that rather than have binding arbitration by an independent chairman of a board whose decisions are binding on both employer and employee.

Mr. EADY: Mr. Walker, whichever bill is passed, if Bill No. C-170 is passed, it can still be changed by parliamentary action. The terms of office could be changed; the powers of the chairman could be changed in much the same way. The problem that we have is that, as a public employees union, we have to face the fact that we are going to be dealing with ministers or provincial ministers or elected mayors and reeves, and so on. And this is the nature of the animal; we can not get away from this. So that all we are concerned with—and let me say that we have some of the misgivings you say about ministers of labour, but looking at the industrial relations trade dispute act, bill 54 in Quebec, the Saskatchewan as it operated until the recent changes, we feel that on balance, this has given better collective bargaining for public employees than the bill that is in front of the Committee.

Mr. WALKER: Just one more question. You do not agree then that your members will be in a position of prejudice. I talk now of the civil service under this act. You do not agree that if we operate under the I.R.D.I. where the Minister of Labour representing the employer has a very powerful part to

play, that puts the civil service then in a different position from employees in private industry? This is why I see a split. You are trying to do two things.

Mr. EADY: Well, let me go back again, if I may, Mr. Chairman, to make the position absolutely clear. If you put him under, the way the bill is now, it is our view that there is going to be considerable government influence because of the powers and positions and methods of appointment, and the tenure of the chairman. I am making no reflection on any appointment which may be made in the future. We take that on one side; then we take the risks we take in going under the Industrial Relations and Disputes Investigation Act, and on balance we think that the possibility of interference by the Minister of Labour in an arbitrary way is less and that the collective bargaining machinery which the people of Canada would get would be better, providing the amendments are made to the legislation.

Mr. LEWIS: Mr. Chairman, unfortunately I have an appointment in my office in about five minutes. I wonder if I can get the indulgence of those who you have ahead of me to ask a question along this line before I leave?

Senator MACKENZIE: Naturally, although I would like you to hear what I have to say.

Mr. LEWIS: Then I will be late for my appointment, so go ahead.

Senator MACKENZIE: It is quite all right.

Mr. LEWIS: How can I be discourteous to you and not stay and hear?

Senator MACKENZIE: But I think you would be interested in my suggestions because if it is in order, what the witness has told us raises a basic issue in the philosophy of labour relations, to the effect that there is really no distinction between what you might describe as the public service and the private area of labour relations. I have been increasingly of the opinion that while everything should be done and must be done to ensure that the best interests of the employees be secured and protected, you are not fighting with the government in reality in terms of the public service but with the public in the community. I do not think that the public in the community can afford to be denied essential service because of the interests of two parts of the community; one the members of the union and the other the government. I think it is going to be essential in the years ahead that people like ourselves and others work out some kind of a pattern system under which the members of the unions will be ensured and assured of fair treatment and at the same time the community be protected from the damage and the hardship that can ensue from a major strike. I know this is basic philosophy and I do not want you to answer it now, but I wanted you to hear it because this will be coming up time and time again.

The JOINT CHAIRMAN (*Mr. Richard*): In other words, the witness is Mr. Eady. Have you any answer?

Mr. EADY: I am the Vice-President of the Institute of Public Affairs and Senator MacKenzie is the chairman so I have to watch what I say in my other hat. In my view, this has to be done, Senator MacKenzie, for both the whole area, because actually there are strikes that could take place in the public service that would not affect the public at all. It might be very good for the

taxpayers of Canada if the whole of the National Revenue Department were on strike.

Mr. WALKER: There would not be any money for the other 26 in the groupings.

Mr. EADY: Well, of course, there may be some pay cheques stopped. But the point I am making is that it could be very serious. There are sections of the public sector where there are essential services which could be adversely affected. On the other hand, there are also sections of the private sector that have the right to strike that are also essential services. I think that this matter has to be regulated by dealing with the problem of essential services under amendments to the industrial dispute act, and it does not make any difference whether it is public or private. May I take an example. In our jurisdiction prior to bill 54, in Quebec, if we struck Gatineau Power or Southern Canada Power or Northern Quebec Power, we were entitled to strike them because they came under the act but the old Quebec Hydro was under the public service act and, therefore, was under compulsory arbitration. The fact that one is private and one is public, does not make any difference about the essential nature of the hydro service.

The other thing is, which our union feels very strongly and I think this is something which we have got to look at in Canada, if I might say so, with respect to the new Canadian. People often ask me—I have spent some time in Sweden—why it works in Sweden? It works in Sweden because the government interferes to the minimum in both collective bargaining in the public sector and in the private sector. I think the public has an interest and the members of parliament who are here have an interest in doing it, but the policy should be to intervene when the public interest is going to be affected, for example, by a strike. I would much prefer to see—I do not like to see a bill passed to compel our members to go back to work—the parliament of Canada say, because of X and X situation, we are going to take this legislation, than to put a blanket of compulsory arbitration over a whole sector.

The other problem which concerns us, Senator MacKenzie, is that the public section is growing. Regardless of what political party is in power, the public sector is growing constantly and what we are afraid of is that if this philosophy becomes accepted, that public employees are—and I do not like to use the word because I am really against using the words “second class citizens” because they are not anymore,—at least second class in the sense of not having the right to strike, then you get a constantly expanding system until if you got a very large public sector you would have something rather like a corporate state. This is what we are opposed to. We would rather see intervention on the other and to have the employee unions take over responsibilities in recognizing that there are essential services, and that we shall have to sit down and bargain about these and settle these disputes. We have got to find some way to stop the type of strikes that have been happening.

Senator MACKENZIE: Your use of the words “essential industries” and your conclusion is that they are the matters that concern the public interest.

Mr. EADY: Yes.

Mr. LEWIS: Mr. Chairman, Mr. Eady has made a comment which I would have made without arguing with Senator MacKenzie, that to limit the question of essentiality or the public interest purely to the public service, is just not logical. The problem is wider than that. There are sections of the public service whose work might not be of very great essentiality to the people of Canada, and in the private sectors, the opposite would be the case.

I would like to put this to you, Mr. Eady. I have seen your recommendation that the bargaining would be better if it were under the I.R.D.I.A., and others have said the same thing. I do not accept most of Mr. Heeney's reasons for thinking that there should be a separate regime. I think there are other reasons, some of which he has mentioned. I am not at all sure that the Canada Labour Relations Board in its experience in other areas of labour management relationship is necessarily the best qualified to deal with the particular type of relationship that a public service necessarily is. I think a very strong case can be made out for the value of another similar board rather than the board that now exists in other spheres. Also, you have the whole question of the relationship of the Treasury Board and the Civil Service Commission in initial appointments, and so on which seems to me to make it difficult merely to state, just put them under the I.R.D.I.A. and that is the best. What I would like to ask you is this. I have, as I stated in parliament, and as I suggested here, when we go clause by clause, I will have a good many suggestions to make. I have a good many objections to the details of the bill. But if the bill were amended so that you would not have the extraordinary powers in the chairman of the staff relations board, who is not merely concerned with certification, but he is the man under the bill who sets the terms of reference for the conciliation board, who appoints the chairman of the arbitration board and so on, and I agree with your submission that that is far too large a power in one person, for various reasons, but if that were amended, if some of the exclusions were taken out, if some of the limits on the field of bargaining were removed, if, in other words, you had a bill that gave the public employees genuine collective bargaining, instead of the very severe limits that, in my opinion, the bill now contains, would you not agree that a separate regime for public servants would, on the whole, be better for them and for Canada than putting them under the I.R.D.I.A.?

Mr. EADY: If you pose the question that way, Mr. Lewis, I think I would probably say yes. The reason that we advocated the change is that we visualized that in requesting a change in the major existing legislation, the type of restructuring of the labour board itself that took place in Saskatchewan in 1944, —when the bill was rewritten, the board was reconstructed and the whole system was altered and then, again in bill No. 54 in Quebec, two of the first two major cases that have come in front of the reconstituted Quebec labour board and then again in Quebec two of the first two major cases that have come in front of the reconstituted Quebec Labour Board have involved the provincial civil servants in the case of the C.N.T.U. and the Quebec Hydro case involving ourselves, a crown corporation in the civil service. When they did this they took account in the makeup of the Labour Board of the fact that you could not just have the Canada Labour Relations Board the way it is now. You would have to change—

Mr. LEWIS: Is the principle there really not the acceptance of the fact that you need something other than what you have got. Now, whether the separate agency happened to be members of an existing board or are a separate board is surely a detail. The principle that the public service, because of its way of working, because of its relationship to the treasury, and all the rest, is best served by a separate regime, assuming the regime is adequate, is surely correct, and would you not be better off to keep on fighting to make this Bill No. C-170 a better bill than to go off on what I think may not be as valid a position of saying, just put all the public service under the I.R.D.I.A.?

Mr. EADY: I agree with you. This is basically what we did in our brief. We stated our basic position and that is why I answered Mr. Bell's original question in the way I did, but that we then go into some of the detailed criticism of the existing bill. All I can say in this case, as an official of the union, is I have to consider the policy of our union as set down at our founding convention and at our recent convention in Vancouver, and having studied all the pros and cons, as a basic position, our union would prefer to be under the same legislation, even if there may be some special clauses relating to the public service, than having a separate regime. If that is not possible, then we would like to see some changes made in the existing bill in order to provide real collective bargaining.

Mr. ÉMARD: Do you think, Mr. Eady, that the grievance procedure should be included within the bill?

Mr. EADY: The grievance procedure? No, I think the grievance procedure should be in the collective agreement which the unions concerned are going to negotiate. If I might just take an example here: if you had a unit of the type that was being discussed by the witnesses from the printing trades in the Queen's Printer, that might require a different type of grievance procedure in terms of steps from what would be needed, for example, by a nation-wide federal department like Customs and Excise, or other sections of the service. We have a basic grievance procedure which you will find in nearly all of our collective agreements, but there are differences in the way it operates and even in the way the clauses are written, depending on the size of the operation, the number of members involved, and the type of industry within the public service that these people are covering. For example, you can see without giving any further illustration, that there would be quite a difference between a grievance procedure covering a hospital, and one which is covering a provincial hydro. So that we would favour the grievance procedure being a subject of negotiation. We have no objection—and I would repeat this, Mr. Chairman—to the type of provision, which is in all acts at the moment, that the last step should be arbitration. We have no objection to the arbitration of grievances during the course of the collective agreement.

Mr. ÉMARD: On page 11 of your brief you say in U.K. and I quote:

There is absolutely no restriction on the public servants contributing to the political fund of any political party if the trade unions desired to have such a political fund by majority decisions.

Being an old union man I have a certain experience of how majority decisions are obtained. Would you be in favour of a printed form which would list all political parties and permit each member to put a check in front of the party that he would like his contributions to go to?

Mr. EADY: No. Basically the same position applies in the British situation as applies in the Canadian situation. The setting up of a political fund by a majority of the members and the contracting in or contracting out, as the case may be, involves belonging to a party which has provision for such affiliation. The problems of a political fund in the case of the Union of Postal Workers, for example, in Great Britain, is that they must have a party with which they can affiliate, and as far as the decisions are concerned on this, there is a tendency for people to think that there is some sort of reign of terror when the political affiliation question comes up. I have been the secretary-treasurer of a local, and when people hand me a contracting out form or contracting in form, depending on what legislation we were operating under, it does not concern me a bit. Let us take a specific situation. If the local union that one belongs to affiliates to "X" political party, all you have to do is to contract out and then, of course, you can make your own contribution to any party you wish. The question of a political fund involves the question of an affiliation, and the affiliation requires that the party concerned has some system of affiliated membership.

Mr. ÉMARD: But is it not strange to find that a worker contributes to one party and then votes for another?

Mr. EADY: I am not so sure that the ones who contribute vote. Perhaps some of the ones who do not contribute vote for another.

Mr. ÉMARD: What clause in the bill do you find is less acceptable, or what do you object to the most? Is there something that is really less acceptable than anything else—something that you are very much against in the bill?

Mr. EADY: No; I think that what we have tried to do, through you, Mr. Chairman, for the members of the Committee, is to make our assessment of the bill as a whole, and the proposals that we made in our brief are sort of packaged. We have a certain pattern that we are trying to develop, and I do not think that we are trying to change anything. The only major objection, if you wish to put a major objection, is this question of the right to strike. If we have one major objection to this bill, it is the system of compulsory arbitration, and particularly the decision on that is made before the certification by the Public Service Board and not afterwards by the members involved. At least the members should say whether they want compulsory arbitration or not—not the organization which is their bargaining agent. It means that if I go out to organize a group of federal employees as the official of the union, I make the decision and not the members. But our main objection is this question of the right to strike, if there is a single issue on which we feel very strongly.

Mr. WALKER: Even for the limited period of time as spelled out in the bill?

Mr. EADY: That is right.

Mr. HYMMEN: Mr. Chairman, I have two general questions that I would like to ask Mr. Eady. He may have just answered the one, but I will direct it to him anyway. After reading and hearing the brief which you presented some time ago, and notwithstanding anything that has been discussed here today, am I right or wrong in assuming that your organization feels that Bill No. C-170, with the one strong reservation you have just given, is a reasonable bill?

Mr. EADY: In context, it is a better situation than has been in the federal service up to now. I do not think there is any organization that is going to

appear in front of this Committee that is not going to say that this is a step forward. It is. But having said that we feel that there are certain major shortcomings which were set out in our brief, and some of which I explained this morning. So, therefore, it is a step forward. We would like to have seen three or four steps forward.

The JOINT CHAIRMAN (Mr. Richard): Thank you. Are there any other questions? Thank you very much for coming.

Senator CAMERON: Just one question that comes out of Senator MacKenzie's comment, and I was interested in Mr. Eady's statement very much: for example, this question of the essentiality of public service. A couple of weeks ago we had the threat of a strike on the part of the CBC employees. I would say, "fine, go ahead and strike, we can get along without the CBC for a couple of weeks", but when the Post Office people say that they are going to strike, then that is a very different picture. In other words, the question of essentiality comes in there to a very marked degree, and this illustration, I think, underlines the necessity of defining what constitutes essentiality.

Mr. EADY: I would agree with you, Senator Cameron. The only problem that we are concerned about is that in terms of a democratic society—and I am talking now a little bit from the terms of political and social philosophy—we think it is better for the system of democracy in Canada that we should occasionally have strikes of the type of the protest strike of the postal workers last year and have the inconvenience and trouble that that causes than to have a dictatorial system where there is no right to strike. I have watched this and I say this in all seriousness. Charles Daley, the former Minister of Labour in the province of Ontario, told the delegation of my union once, when we were discussing a hydro dispute: "I had representations made to me that the strike of the brewery workers, six or eight years ago, was a breaking in on an essential service for the people of Ontario." Now, I give this as a silly example, but once you agree that there is an area of essential service then, of course, it gradually becomes expanded so that you reach the point that anytime a member of the public is inconvenienced, then that is an essential service.

Our union runs very much like many paper-making organizations on the postal service, but we managed to get our pay checks out and, we manage to get our per capita in, in spite of the fact that Mr. Kay's members and Mr. Decarie's members were out on strike last year. We found other ways of doing it, and I would rather, as a person taking a postal service, have that inconvenience than restrict the right of the postal workers unduly. This is our basic philosophy.

Mr. HYMMEN: Assuming that we accept this proposition, how long would you allow a strike to carry on?

Mr. EADY: If I might pass the buck gentlemen, I think this is your decision. I think the parliament of Canada and the parliaments of the provincial provinces, have a responsibility, as elected members, collectively to decide when the public interest is involved and intervene and, I say that as a former elected councillor. I have never been a member of any parliament. When we go into disputes, we had to decide at what stage something had to be done about it. When this is done, then you get the area of public judgment. Does the public, collectively as voters, decide that you made a good judgment or do they think that the strikers had this right. I feel this is where the power rests.

Mr. HYMMEN: The comments in parliament, of course, do not always have to be made yesterday.

Mr. EADY: I am talking now of calling into special session. I think that if the government of the day calls the members of parliament into special session, as they did on the railway dispute, it is then the responsibility of the 265 members of the House of Commons and their colleagues in the Senate, to decide whether the government has made a case that this is an essential service and that the public interest is paramount in this circumstance at this time and, if they make their case, I do not think there is a union that will not accept it. They will accept it reluctantly, as you saw in the railway union strike, but nevertheless, faced with it, we have to accept that the final decision rests with you gentlemen.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, you are next.

Mr. WALKER: All right then, parliament having taken its responsibility in a case like this, would you feel then that it is the responsibility of men like yourself and labour leaders to advise your men to do what parliament legislates.

Mr. EADY: I can only answer for myself, Mr. Walker, but yes, I feel very strongly that union officials have this responsibility. I would also point out that we also have the responsibility, as has been exemplified in correspondence going on in the *Globe and Mail*, to counsel our members sometimes to demonstrate against unjust laws. This is not infringement on the right to demonstrate, but I think if the parliament of Canada makes a decision, we have a responsibility to tell our members to accept it and then to organize everything we can to punish the people if we do not agree with the decision. This is our responsibility and this is where the political action comes in.

Mr. LACHANCE: Do you admit that some members of the unions have the right to decide if they accept the right of strike or not. They have the right to choose compulsory arbitration or the right to strike.

Mr. EADY: It seems to me that they must have the right. It has to be a collective thing, because you cannot have a group of people in a particular area, saying that they want a right and the rest of the system—let us take the C.B.C., you could not say you were going to give the right to strike to a small group of C.B.C. employees in St. John's Newfoundland, when the rest of the employees of the system want to go out on strike. It has to be like all things in unions, a majority decision shall rule. You can lay down rules about how that majority check-off, that has come in front of the Committee, we favour the Rand formula, because there has to be a point where someone has to say that the majority decision shall rule. You can lay down rules about how that majority decision will operate, but within those limits, then the people who are in the minority have to accept it, whether it is on the question of a right to strike, on union dues or anything else.

Mr. LACHANCE: It is a matter on which the majority has a right to decide?

Mr. EADY: The majority has the right to decide.

Mr. LACHANCE: You criticized the time when unions have to decide whether they would go to full compulsory arbitration or conciliation. When do you think this option should be taken?

Mr. EADY: Bearing in mind that we object to the choice in the first place, but if this option is going to be in, we think that the choice should be made after the bargaining unit has been certified. There are 66 job families in the present proposal. We know that this may not be the final decision. If you get certified for a X number of those groups, then it should be possible to take a vote amongst those members, and it would be done in this way. At the time you asked them for their proposals for collective bargaining, which we normally do, we always ask our members, some of them being new, what they want in the new collective agreement and they tell you all the things they want. You just add one more question: Do you want the option of compulsory arbitration or, do you want the right to strike? Then when you get the answer you should inform them. We would not object and I do not think the unions who are involved would object to your consulting their members if necessary. You could actually take a ballot among the people asking, What option do you want? Basically, I think, this is really the responsibility of the organization. It is our job to ask our members.

I find travelling around on Air Canada, when I sit down that someone asks me what I do and I tell them I am a trade union official. Some reference is usually made then to bosses. Union officials who are sitting in this audience know that, you do not tell your members, you ask them. As I just said to Mr. Walker, while you are supposed to give leadership, basically if a group of members in the federal civil service think that they should have the option of compulsory arbitration, I can talk until I am blue in the face, but they will take that option, if the law gives it to them.

Mr. LACHANCE: There seems to be a conflict in your two answers. I asked you if you accepted the fact that some people should have the right to choose compulsory arbitration and then in the second answer you seem to say you are against the option.

Mr. EADY: We are against it, because our members in convention, by majority decision, have said that it is the policy of our union that we are opposed to compulsory arbitration in collective bargaining. Do not forget that I do not have a vote in our convention, it is only the delegates from our local unions who work in our jurisdiction who have votes. They decide the policy of the union, not the trade officials like myself.

In convention—we call it the parliament of our union—we have 600 or 700 delegates and they decide. It is their decision on this matter that I am giving to this Committee. They are not my personal views.

The JOINT CHAIRMAN (Mr. Richard): Mr. Fairweather do you have a supplementary? You are next then, Senator Deschatelets.

Senator DESCHATELETS: Supposing the members of a union are faced with this option, it is up to them to decide. If I understand it correctly, you have the right to give them any indication you wish, but the members are going to decide.

Mr. EADY: Right.

Senator DESCHATELETS: Have you any objection to this decision being taken through secret ballot?

Mr. EADY: No, none at all.

Senator DESCHATELETS: Would you have any objection that somewhere in the bill there is a provision covering this?

Mr. EADY: No, except I would point out to you the experience of the Taft-Hartley bill in the United States on the question of a secret ballot for strikes vote. The Taft-Hartley bill thought that the unions were running ballots in such a way that decisions were being made which would be different from what they would be if they were made under government votes. For many years under the Taft-Hartley bill they ran these as government votes, which involved quite a lot of expenditure. They found after a period of four or five years, when the bill came up for review, that in about 99 per cent of strike votes they accepted the recommendation of the unions. When the bill was amended they removed this provision. Therefore, if you were to put something in the bill, it would seem to me that the best requirement is, not that the government run the bill, but that you require the unions to run it by secret ballot. I will give you an example. We had an official from our union phone me up about a small municipal strike in Timmins and he said that members are insisting that there be a show of hands vote. I consulted the president and the president told me that it was the policy of their union that the strike votes, both to go on strike and to go back to work, be a secret ballot and we ordered our representative to tell the members that this is the decision of the elected officers of the union and that there must be a secret ballot to decide whether they should return to work.

Mr. LACHANCE: I have a supplementary. Is this one way of giving the members their own responsibility, instead of giving the government the obligation of taking the responsibility?

Mr. EADY: That is right. Yes, I think it should be given to the members and, as far as we are concerned as union officials, if we cannot convince them—

Mr. LACHANCE: Is this the best way to get it, by secret ballot?

Mr. EADY: I agree with secret ballot. The only question I am raising is do you need a government supervised secret ballot.

Mr. FAIRWEATHER: I am wondering, Mr. Chairman, whether the witness thinks it is realistic to assume that union membership at this stage—after certification—would vote to accept compulsory arbitration rather than to maintain the right to strike in these essential categories.

Mr. EADY: I can think, for example, of sections in the federal civil service—I would not want to name any particular section—but I know the 66 job families—where you could well have that choice made for compulsory arbitration. Without naming any categories, I can think of certain categories of federal employees who might prefer to exercise that option. I would be equally sure that the postal workers would exercise the other option. I do not think you can assume that every civil servant wants the right to strike. There is a very strong indication—and I am a resident of Ottawa—that many, many civil servants in the capital area would not want the right to strike. I think that you might get varying decisions depending on the group of employees involved. For example, members of the professional institute would not normally be expected to vote for that. They would normally want to settle their disputes professionally by some form of arbitration.

Senator DENIS: I have one more question. What is the use of employees whose services are essential going on strike when we know directly, or indirectly, or in one way or another, this service would be stopped?

Mr. EADY: Without going into a whole discussion on collective bargaining, I would say that this is a situation which our union faces on a day to day basis from one end of Canada to the other. We know that in many, many cases we have to reach a settlement because a strike will be unacceptable in that particular service. But there are also occasions where we have a good case, such as where people are under paid. I think, for example, there is widespread public sympathy for the plight of hospital workers and people working in the old peoples homes. Although this is an essential service there are people who know the conditions and are working in many hospitals in this country who say they would rather risk a strike in some of these hospitals to improve the conditions than to allow the situation to go on. I think a union by its very nature, particularly a union like ours which is made up wholly of public employees, has to take into account public opinion. If public opinion is not with us, then we are going to have to accept less than we would if we had the public on our side. This is an assessment that not only we have to make but our members have to make.

Senator DENIS: Would you know, for instance, if public opinion would be for or against strikes?

Mr. EADY: Well, Senator, let us suppose we have already put our hands behind our back and agreed to compulsory arbitration. There has been some talk about human nature in this Committee. If I was an employer, and when I first came to Canada before I rejoined the labour movement I was employed in a position as manager, I would be less than human, knowing the people on the other side of the collective bargaining table did not have the right to strike, if I did not take the very adamant attitude of saying "No," to everything.

Senator DENIS: Suppose a compulsory arbitration board could be established according to your wishes, do you not think that it would be much better than going on strike, knowing in advance that this strike would be stopped in one way or another? It is like the railway strikes, you do not know whether Parliament is going into these disputes too soon or too late. That is what happens in the House of Commons, no matter if you are a Liberal or a Conservative, if you are in power or in opposition, if it is decided that it has to be done that way. The government gets into it too late or too soon. Suppose there was a board of conciliation; the fear is would that board be composed of people who would be fair to the employees or to the union.

Mr. EADY: Let me give an example which is within the knowledge of one member of the committee, your colleague. I refer to the St. Lawrence Seaway case. Senator MacKenzie had the job of settling that. I sat on the conciliation board as the representative of the Canadian brotherhood. One of the reasons Senator MacKenzie was called in to settle the strike was because the collective bargaining which had gone on before was not very realistic. If they had done a better job of collective bargaining at the lower level and there had not been such an adamant attitude and such fantastic, ridiculous, wage offers, Senator MacKenzie might never have been called in. I had the feeling that the employer member of the board and the employee side of that conciliation board thought

that the workers would be forced back, there would be no strike, and therefore they took an extremely adamant attitude. If they had thought—as it turned out—that there was going to be a strong strike vote and these people were really serious, then we might have settled it with the aid of the chairman of the board, and Senator MacKenzie might never have had to come into the thing. But here was a case where, at the conciliation board level, we were not functioning properly because the board was not operating properly and also the collective bargaining machinery was not functioning properly. Therefore, at a later date the government had to appoint a mediator to try to straighten something out which should have been solved by the conciliation board, if the collective bargaining machinery had been functioning properly.

Senator DENIS: Could it be decided what kind of services are essential and what kind of services are not essential? I agree that there are some categories which are not essential and maybe we could get rid of them.

Mr. EADY: I think it is possible, Senator, to do that, providing you start from the base that you want to make the area of essential services, under your definition, the minimum. If your philosophy is we want to make this essential service really essential, do not start out with the idea that the whole public service is essential and we are going to allow certain sections of it to strike. We like to start from the base that this is a very narrow group of people and that there are large sectors where it would not hurt if they went out on strike. I agree with you; I think we should be able to sit down and decide this question. In an industrial plant where you have shutting down, for example, of the galvanizing sections, you have to agree with management how you are going to pull the men out, otherwise if you let those sections of the plant go cold just by cutting the plant off you are going to be in trouble. I think the same principle can be followed in this definition of essential services. No doubt any of the civil service organizations—never mind our union—could well sit down with the government and define what are essential services.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. ÉMARD: If I can recall it properly, I think the clause in our bill says it is based on security and not on essential services. Is that correct?

Mr. EADY: Security and safety.

Mr. ÉMARD: Yes, security and safety; not essential services.

Mr. KNOWLES: Mr. Eady, I hope you will find a fair amount of support in this committee for your contention that clause 36 of the bill requires this choice between arbitration and conciliation to be made too soon. I wonder, however, and I confess I ask this question in the light of briefs from some of your labour colleagues who have appeared before us, whether you have not offered to make the choice still a little too early. You said a moment ago rather dramatically that if you were an employer and knew that the employee had already tied his hands behind his back by accepting arbitration, that you as an employer would take advantage of that. I wonder if that is not the situation if employees have to make this decision even immediately after certification. I think the brief of the Canadian Labour Congress went into some detail as to what goes on in negotiations and how each side has the right to plan its own strategy. I think the contention in that brief was that this choice should not have to be made

until the dispute is taking place. The I.R.D.I. Act, specifies certain times within which these decisions should be made. I put this to you; have you not, in the spirit of compromise, offered to accept the requirement to make this decision a little too soon for the good of the employees.

Mr. EADY: We discussed this in preparing our brief and I think that we underestimated the committee. We thought the attitude seemed so firm on this question that there would be very little likelihood of moving this clause in any major direction. We may, in wanting to make a change, put a compromise proposal into our brief which is less than we would like. If you were to ask, for the record, for the position of our union, we say once you step away from the right to strike and come to the question of compulsory arbitration, we would prefer the choice to be made approximately seven days after the report is handed down, as in industrial disputes. We made this compromise in presenting our brief because we felt this was a practical proposition to be made to the committee. But our position would be, as you have stated, that we would prefer to see it and we agree with the congress brief in this regard.

Mr. KNOWLES: What you have offered today is really just a compromise?

Mr. EADY: Yes, that is right. It is a compromise which we did not like. There are several suggestions made in this brief which are against our union policy but we felt we had an obligation to study the bill in detail and make some suggestions for improvement, and we made compromise suggestions. Now that you have raised the question, our position is definitely the same as the congress on this matter. Our proposal was made as a suggestion.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Eady. As we have advised other witnesses, we would like to have you attend the hearings at a future date when the bill is being considered clause by clause so that we may have the opportunity to call on you. Or, you may want to give some further enlightenment.

Mr. KNOWLES: You will not be writing any letters, anyway.

Mr. EADY: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): We received a short brief from the typographers a short while ago and Mr. Duffy is here this morning. I do not think the question period will be long and I was hoping we could start.

Mr. KNOWLES: I think we should give as much time to the I.T.U. as we gave to the lithographers.

The JOINT CHAIRMAN (*Mr. Richard*): It all depends—

Mr. KNOWLES: Do not remind me that I am an I.T.U. member.

The JOINT CHAIRMAN (*Mr. Richard*): You seem to be a member of many things. Are there any questions for Mr. Duffy?

Mr. BELL (*Carleton*): I have one. Perhaps Mr. Duffy would refer to the bottom of page 2 of the brief and to the recommendation therein made which is similar to the lithographers, namely, that the printing bureau be transferred from Part I to Part II of Schedule A. I am still not clear in my mind how this would improve the situation in so far as this union is concerned. I would appreciate it if Mr. Duffy would outline what advantage he feels would result from that?

Mr. JAMES P. DUFFY (*President, Ottawa Typographical Union*): Mr. Chairman, we feel that the government printing bureau is in a unique position with regard to government agencies in so far as they are competitive to printing companies in the national field. In this respect they do their own printing jobs right from the process of estimating up to the point of starting production. They give the opportunity to outside interests to estimate these jobs as well. If the job can be done within the printing bureau at a reasonable figure, it is done within the plant. If it can be done outside on a competitive basis, they may frequently give it out because it costs the government less to do it this way. In this way you will see there is a direct relationship between the cost of production within the government printing bureau and the cost of production on the open market. If we do not try to maintain a level of negotiation with the government printing bureau on a par with the outside areas of printing, you can visualize a chaotic situation where the outside people might go above or below in the matter of the cost of labour; in either case creating a situation where the government printing bureau, as an employer within the structure of the civil service, would be at a disadvantage or that the union would be at a disadvantage. The best situation, in the view of the International Typographical Union, would be one in which they were on a basis of equality with outside competitors.

Mr. BELL (*Carleton*): I see that point but I do not see how you achieve that by the transfer from Part I to Part II of Schedule A.

Mr. DUFFY: It is my impression as a private employer that under Part II they would have greater scope for competitive bargaining with respect to the position they find themselves in within the government.

Mr. BELL (*Carleton*): In what particulars do you feel that scope would be available?

Mr. DUFFY: Well, merely that if the price structure of the job evaluation department indicates, let us say, that the rate for union employees in the typographical union fell below the area of the government, then it would immediately bring this work to the outside area and the need for the people within the government would diminish and the staff would be reduced. Perhaps I am not getting the point across, that it would make any difference whether it was under Section I or Section II, but we have the feeling that it would be preferable to be under Section II under these circumstances.

Mr. BELL (*Carleton*): I appreciate your point in principle but I have difficulty in seeing how the implementation of that principle would be carried out by your recommendation.

Mr. ALLAN HISTED (*Representative of International Typographical Union*): Mr. Chairman, could I just say a few words? In this particular case it is our belief that the people charged with the responsibility of the government printing bureau certainly are much better informed than someone who does not understand the printing business or the competitive position in the printing industry. As Mr. Duffy has stated in the brief, most certainly in the government printing bureau they are in a somewhat unique position in that they do actually enter into competition with the private employers. Now, certainly it is the

objective of the members of Ottawa Typographical Union, who are the representatives in this particular situation and do represent a majority of those people working within the government printing bureau that we wish to have the conditions set in the government Printing Bureau comparable to those existing in general industry. They are doing the same job and we wish to be able to bargain with people who understand that particular industry, and to be able to negotiate with some one who is acquainted with it.

We also would not like to have, and are definitely opposed to setting up, conditions that would be injurious to the private sector of the printing business, and we think, not from ego but because we have been in business 114 years, we, along with the other groups which are represented in the government Printing Bureau, know this particular business better than someone who has not had the same experience. I might add, too, just as an interjection, that in this particular instance we are unanimous, within the printing trades employed in the Printing Bureau, on this particular position.

Mr. BELL (*Carleton*): I think you have made your point very effectively. I think it is up to some of us on the committee to see, as we go through the bill, whether your point is taken care of by the particular proposal which you make, or whether there may be other more acceptable techniques.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. ÉMARD: If I understand you correctly, you mean that the wages and the working conditions in the Printing Bureau should be on the same level as the wages and the working conditions in the trade outside? Is that right?

Mr. DUFFY: Yes. Under the system of collective bargaining outside in the trade in the past, we have been able to secure, in our particular instance, the prevailing rate of the Montreal union for the employees of the government Printing Bureau. In other words, by appearing before the prevailing rate committee a number of years ago, they accepted this as the acceptable going rate for employees in the government Printing Bureau.

We would not like to see either sphere fall too far behind for similar work, mainly because, as you can see, that, with the necessity of supplying man power, if the scale in the government Printing Bureau fell drastically below that paid in private industry the securing of employees would be difficult. If it became the other way round, then it would be difficult from a pricing point of view.

Mr. ÉMARD: But if you have been able to secure the same pay and working conditions at present when you have absolutely no bargaining rights do you not think that no matter to which organization you belong you would be able to secure the same right in the future?

Mr. DUFFY: No. You are suggesting that we do not have collective bargaining?

Mr. ÉMARD: No; I am suggesting that whether you belong to your own union, or whether you belong to the Civil Service Association, or any other organization, would not make very much difference in this particular case?

Mr. DUFFY: We think it would. We had Mr. Poulin here this morning from the Lithographers Union and we had a representative of the Council of Union Employees within the government Printing Bureau present this morning. As a

council we work very well together; we are united on one thing, that, if we cannot have individual craft bargaining, as an acceptable alternative we would have council bargaining; but preferable by far to the individual unions would be the opportunity to appear and bargain for their own particular rights.

Mr. ÉMARD: I can understand your position perfectly. Everybody wishes at this time to retain the same organization as they have at present. But how difficult is it going to be in the future if we have so many organizations? The number was quoted some time ago, and I cannot recall how many employee organizations there are already working in the civil service, but there is a tremendous number of them. I think one of the objectives—not of this bill in particular—was to reduce this number. Is that not right?

Mr. DUFFY: It seems to the Typographical Union a hollow gesture on the part of government on the one hand to offer collective bargaining and then try to tell us who will represent our people.

The people who are members of the Typographical Union feel that because of the 114 years that we have been in the business we are best able to represent ourselves. For this reason, if we are lumped under, as you say, the Civil Service Association, or the Civil Service Federation, we do not feel that they could take care of the situation as well as we do ourselves.

I could point out where, even in private industry, things like this do happen. In the *Citizen*, as you know, many years ago there was a strike. The Typographical Union does not have any bargaining rights in that plant and under the set up proof readers and teletype setter people, who are traditionally under the jurisdiction of the International Typographical Union, or the Typographical Union in Ottawa, have been allowed to fall as much as \$85 to \$90 a month behind, because they are not being represented by typographical people at the bargaining table; they are being represented by members of the American Newspaper Guild. This is essentially a writers' and editors' group, and they look out for the writers and the editors adequately; but we find that, being part of that, people who would normally be represented by us are falling far behind.

Mr. ÉMARD: I agree; but on the other hand I could point out to you, too, some cases in industry today where the same union representing the same kind of work in different parts of Canada have altogether different working conditions and wages.

Mr. HISTED: Mr. Chairman, might I intervene? In this particular phase, we certainly I think in the brief, while we tried to be brief, have pointed out that we prefer the craft union basis, because, naturally, if a member joins our union he has one reason for it and that is, that is the group which understands his desires or her desires better than any one else. We prefer this. In other words, I do not know anything about the bookbinding trade. When I say this I mean that I have as good an idea as most people in this room and perhaps better, but I certainly know this, that I do know the desires of the members of the Typographical Union pretty well across Canada and the United States, because we know this from long experience. However, if it came down to some other group outside of this business at all, many of them do not have any sympathy with the desires that our members would have and, therefore, there is no

purpose in having an organization representing you, which does not know your desires.

We realize the complications that may result from a craft basis; we can picture this, too; but we still think this is the better way, and we still think that even on negotiations, if we were individually certified and in the printing trades, we might agree to joint negotiation.

This way your negotiations go on with the same idea of simplifying, or reducing, the amount of time taken in so far as negotiations are concerned. I could mention this—and I do not want to be too long on it—that there are many cities in Canada where in the commercial printing field the bookbinders, the pressmen and the Typographical Union negotiate their contracts on economics specifically all at the same time.

There are many deviations, but what we are primarily concerned with here, as we say in our brief, is that we do represent a majority at this time, which is still to be proven if and when the bill is passed and on whatever basis. We will still have to prove that we do represent a majority of those people, and we do not believe it is democratic that someone, in order to give us a right which we have asked for, is going to take that something away from us which we have had since 1872 or more, that is, that we have represented the people in the Printing Bureau. We do not want something taken away which we have had for a great many years. We have never had true collective bargaining.

Just to clarify one point, at one time it used to be that the rates for compositors or the Typographical Union people, or those who work in the government Printing Bureau, prior to the war, were paid on an average between the existing commercial printing trade rate with our union and the commercial employers in Montreal and that existing in the city of Toronto. But during the war years, as you all know, there were orders in council, and this got messed up, and eventually, after the war was over, through the Trades and Labour Congress at that time, it was arranged that the Montreal commercial rate by contract would be accepted in the government bureau for members of the composing room, the bookbinders, the craftsmen—whatever they secured were the basic conditions; not all of their conditions, but basically the economics. That is still in effect at this time. Even at this time, through the council of union employees in the printing trades, that group does go in on specific problems and represent the members of all the groups. So that we have that relationship at this time.

We will accept collective bargaining because we desire it, but not on a basis that would be entirely unacceptable, and we want to represent the people who are our members working in that plant.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, are you finished?

Mr. ÉMARD: No, I have one more question.

I can understand that tradesmen may be best represented by the union of their particular trade, but in accepting all these certifications I think it may create difficulty. If you consider human nature, we are all the same, and every individual union is going to try to do better than the others, in order eventually to attract the membership.

I think that negotiations may be very difficult with all these special, particular trade unions. If there was a certain grouping together—I do not

know exactly how, and this, of course, is not my business—but I think negotiations would be a lot easier for the government than if every trade union were trying to do the best it could for its individual trades and not caring about the others.

Mr. HISTED: I would hate to think, Mr. Chairman, that we would want to do less than the best for our members and when we accept that position I want to go out of business. I say, with all due respect, that it is my job to the best I can for the people I represent, not the least, or get them a poor deal.

I can see, as I said before, the practical problem. Our union did say that we prefer this, but if, as an alternative, we then could have the government printing bureau as a separate employer to deal with on something they know best and we could deal directly with them, then we would take the alternative if that was the way the ball bounced.

Mr. ÉMARD: I think I have expressed myself clearly enough. What I mean is that I understand you will certainly do the best for your members, but you will probably be trying to do just a little better than the union beside you. This is where I think the problem will start.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Orange?

Mr. ORANGE: No questions.

The JOINT CHAIRMAN (*Mr. Richard*): Any other questions? Mr. Walker?

Mr. WALKER: Do you want to see this craft principle that you have been enunciating spread right through the whole public service?

Mr. HISTED: Mr. Chairman, I would have to say, in that regard, that I do not intend to represent anyone who has never consulted me and I say this with due respect. We are leaving the objections to Bill C-170, as it is now, to the Canadian Labour Congress brief on their criticisms and proposals for correction. We are in agreement with those positions. I think that is the way I would like to leave it.

Mr. WALKER: All right. Would it help your inferred problems at all if all the printing was done in the bureau rather than having some of it done outside.

Mr. HISTED: We still do not think we have the right to tell the government where they ought to have all their printing done. We have contracts with commercial employers, and this is one concern I would just like to mention here.

Certainly if the government printing bureau had an organization representing it which did not understand the printing and its competitive position with the private sector, it could injure our members throughout all of Canada. If they had substandard conditions it could be injurious to our members throughout Canada, and, also, all the printing trades. That is why we think that the printing trade should represent printing employees. Again, whatever conditions are to exist they should be not identical because we have contracts in 58 cities in Canada and you cannot have them all the same as the government printing bureau; but they should not be adversely affected.

Mr. WALKER: Yes. Would it be to the benefit of the local which is in the printing bureau—and those are the only people I am speaking of at this moment

as they are the only ones who are affected by the bill—to have the printing done as a unit rather than farming the jobs out?

Mr. DUFFY: We feel that, either way, a large share of the printing would go to shops that are represented by various locals of our union. Much of it goes to Montreal and Toronto, and for us to arbitrarily say that we do not want this system to go on, looking at the overall picture, would not be fair to anyone in the outside units. Certainly if, from a local union's point of view, all the printing were done here I would visualize an enlargement of the government printing bureau staff to be to our advantage.

Mr. ÉMARD: May I ask a supplementary question on the same matter. Is it a fact that today there are some contracts in industry which have contracting out clauses—clauses against contracting out.

Mr. DUFFY: We have not any.

Mr. ÉMARD: You have not any.

Mr. WALKER: There is one sentence in your brief which bothers me a little: "Failure to agree to compulsory arbitration could result in not being certified by the board." I do not know whether that slipped in unintentionally, but it indicates an area of deep mistrust in the independence of the board.

Mr. DUFFY: We felt there was the suggestion in this that you must do this before you become certified; that it could have a bearing on whether you were certified or not. I think this is inherent in the way you would read this.

Mr. WALKER: You certainly do not think that is the purpose?

Mr. DUFFY: I would not think it was deliberately done that way, but that is the way it reads.

Mr. ORANGE: Just one very quick question, Mr. Chairman. I think the printing bureau employees have been well represented here today.

How many employees are in the government printing bureau, and how many people are represented by the groups which have appeared before us this morning?

Mr. DUFFY: I would like to speak for our own group only. I do know that there are in the neighbourhood of 1100 employees in the government printing bureau, of which 400 approximately are in the composition area which we consider to be our jurisdiction. We represent approximately 275, give or take a few.

Mr. ORANGE: 275 out of 400.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Poulin gave us the figure of 245.

Mr. ORANGE: For his group.

Mr. DUFFY: These are all separate.

Mr. ORANGE: So then approximately half the employees at the printing bureau are represented by your union.

Mr. DUFFY: Perhaps we could break it down better if the question could be asked of the representative of the council of union employees. He may know the entire distribution of this. I just do not have the figures myself.

Mr. H. G. JACOBS (*President, Council of Employees, Canadian Government Printing Bureau*): I have a breakdown of the members of the graphic arts in the printing bureau. There are 150 members of the Brotherhood of Bookbinders;

263 members of the I.T.U.; 245 members of the L.P.I.U.; 12 machinists and 23 pressmen.

Mr. WALKER: From a total of how many employees?

Mr. JACOBS: I would say roughly about 900.

Mr. DUFFY: The figure I was giving was the over-all picture, coast to coast, involving the government printing bureau. There are a few in Halifax, and several in Trenton and other places.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: Mr. Chairman, I have just one question. May I precede it with the remarks that we have had a good deal of discussion this morning, with the two unions which have been before us, about their desire to protect their craft position, and I think we understand them on this score; but I gather that both unions would like us not to overlook what is almost their major concern about the other side of the table.

Their principal request to us, so far as this legislation is concerned, is that the employees in the printing bureau continue to be in the position where they negotiate with their employers as separate employers. This is a bit of a compliment to the kind of people sitting across the table from you, but you do not mind that.

Mr. HISTED: With the additional point, Mr. Knowles, that we are seriously objecting to the requirement that any union agree to compulsory arbitration before they even become certified. This we consider—I will have to use a stronger word—very, very serious.

Mr. KNOWLES: You have two main points, then. You are against having to choose between compulsory arbitration and conciliation before you are certified, and your other main point is that you wish to clear with the bureau as a separate employer?

Mr. HISTED: That is correct.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, sir, and you no doubt will be around when we are studying the bill.

Gentlemen, we have scheduled a meeting for this evening at eight o'clock. We will have with us the Civil Service Association of Canada and the Civil Service Federation.

The meeting adjourned.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): This evening we are taking up the brief of the Civil Service Federation of Canada, represented by Mr. Claude Edwards, and the Civil Service Association of Canada represented by Mr. W. Doherty.

Gentlemen, will you come forward, please?

Perhaps you could explain how you are operating?

Mr. DOHERTY: It is no marriage. It is about to be a public service alliance.

Mr. CLAUDE EDWARDS (*Civil Service Federation*): We are as close to being married as you possibly can be. I think the wedding date is set for November 10.

Mr. WALKER: Are your intentions honourable?

Mr. EDWARDS: Our intentions are honourable.

The JOINT CHAIRMAN: Are we going to be invited to the wedding?

Mr. WALKER: I hope you have a marriage contract.

The JOINT CHAIRMAN: Mr. Edwards, are you ready?

Mr. EDWARDS: I do not think I have any particular preliminary statement that I wish to make.

This is my second or third appearance before this Committee. I realize that we have put forward not only the original position of the Federation, and Mr. Doherty, in turn, the position of the Civil Service Association of Canada, but we have also presented supplementary briefs; and we finally tried to put forward to you something which would give up a joint position on some of these items where we might have had some divergent opinion in our previous briefs.

Mr. BELL (*Carleton*): Perhaps you might permit me to commence by asking a couple of general questions, and perhaps Mr. Edwards might indicate, generally, his view about the future position of the Pay Research Bureau and the future position of the National Joint Council. Perhaps he would say whether he thinks that his views in relation to these would indicate that they should be imbedded in the legislation, or by what technique these bodies should either be continued or disbanded?

Mr. EDWARDS: First of all, I think both bodies should be continued. If we are going to have a satisfactory system of collective bargaining in the public service I think it is important that we both start from figures that we can argue about, in reference to, perhaps, what they mean, but we are not going to argue with reference to the figures themselves.

I think the National Joint Council should also continue. I think it should be have had so far, has provided us with accurate statistics with reference to pay and working conditions in comparable positions outside in the private sector. I think this is good because if we do not do it in this way we are going to have to argue from different positions of power, and I think it would be a constant struggle to try and determine just exactly what the conditions of the two broadened in scope. I feel that the people who will be on the National Joint Pay Research Bureau should continue.

I think the National Joint Council should also continue. I think it should be broadened in scope. I feel that the people who will be on the National Joint Council, at least from the employee side, will be representing bargaining agents in the public service, and I think that they would want to consider, in the National Joint Council, matters which normally might not be considered at the bargaining table, or at least would not be considered during the heat of contract negotiations. I think there should be a more leisurely pace for discussion in the National Joint Council on conditions that might perhaps affect the whole service: the effect of automation; general conditions of accommodation: what is good accommodation in the public service for people to work in and things like this; and matters of that type. It should be more in the line of a labour-management relations committee such as you find in some large industrial settings.

Whether or not they should be embodied in legislation, in this bill, I am not as concerned about the mechanics of how they would continue to function. I am much more concerned that they continue to function.

I think that the Pay Research Bureau itself should come under the general direction and supervision of the Public Service Staff Relations Board, because I think it has to be completely fair and neutral in servicing both sides. I feel this is the best place to have it, much more so than in some department of government. I think it should be an instrument of the Public Service Staff Relations Board for the purpose of providing information; not recommendations or anything else, but information.

As far as the National Joint Council is concerned, it has already been established. I think it should probably have its constitution changed, and as you know this is going on at the present time. I think with changes in the constitution it will certainly meet the needs of the new relationship.

Mr. BELL (*Carleton*): What degree of publicity, do you think, Mr. Edwards, should be given to the findings of the Pay Research Bureau?

Mr. EDWARDS: I think the findings of the Pay Research Bureau should be capable of being publicized much more than they are, at least by the parties.

Mr. BELL (*Carleton*): Why is it they are not now? Perhaps you could start me on that basis.

Mr. EDWARDS: The principle reason they are not now, of course, is that they are collected from a group of private employers who are rather jealous of the fact that their wage statistics are not publicly available. I think it has to be a condition of this relationship, between the Pay Research Bureau and the people from whom they gain the information, that the figures would not be released. But there is no reason why general figures could not be released with regard to general wage statistics, and they can be readily disguised so they do not reveal the actual company. Our biggest problem in dealing with Pay Research Bureau material has been the fact that it has always been confidential, and we have a difficult time appeasing our membership in regard to what is a legitimate and reasonable and responsible wage increase either to obtain or seek, because we have not been in the position where we could release factual information which would substantiate the position we have had in our presentations to the commission and the Treasury Board.

Mr. BELL (*Carleton*): This has been awkward for the association and the federation has it not?

Mr. EDWARDS: It has been extremely awkward. It puts us in the position where we may feel ourselves we have an extremely defensible case—something that we can argue—but our members may be thinking that it should be 30 per cent or 40 per cent or some other percentage that we should be being after, when, in our own view, it is not arguable on the basis of the statistical information that we have.

Mr. BELL (*Carleton*): I wonder if I might just, on another associated field, Mr. Edwards, express to you the difficulties I have with the legislation generally.

The staff associations, as they are now organized, are on what I think you would describe as a vertical, or a pyramidal, basis, but bargaining when it comes about is going to be horizontal, is it not?

Mr. EDWARDS: That is right.

Mr. BELL (*Carleton*): It is going to be in terms of groups. What is going to be the future of the public service alliance that you are just about to marry now? How is the new alliance going to fit into the bargaining units and agents as they will exist in the future?

Mr. EDWARDS: If they exist the way they are presently envisaged in the bill we are certainly going to have to make changes in our organizational practice.

Mr. BELL (*Carleton*): That is what I would like to know—the changes which you visualize you will have to make.

Mr. EDWARDS: I think we have a situation which is going to cause us to modify our structure in some way in reference to meeting the requirements of the legislation and the actual bargaining situation.

As you say, the federation primarily, before the alliance, was organized on a departmental concept. The Civil Service Association, however, of my colleague, Mr. Doherty, was organized on one large union across the whole of the public service. The alliance has tried to a degree to marry up both concepts, and we do have an organization which provides departmental components, but there is also a central body to handle the bargaining situation across the whole of the service.

Our constitution does provide that we establish bargaining committees and negotiating committees on the basis of occupational groupings. We will have to make adjustments, I think, depending on what our experience is with regard to the degree of authority that is granted to a negotiating committee representing an occupational group.

At the present time the component structures will place, on the negotiating committees, members who are in that particular group or where they have a particular group interest in the occupational group; but it has to be a flow of not only authority but information that is going to come from the bargaining unit up through to the top. I foresee there will have to be some changes and we will have to work these changes out. We think that we can accommodate the changes within the present structure of our organization. We feel there is going to be a real role, as well, for an organization in a department because the departments are going to have more and more authority. Departmental management is going to have more authority particularly if the commission delegates many of its powers with reference to promotion, demotion, lay-off, classification and so on. It will depend on departmental components to be the real watchdog of the system within departments. Therefore, we feel our component structure is necessary as well as some structure that will represent the horizontal group.

Mr. BELL (*Carleton*): What degree of autonomy do you visualize for the occupational groups within the alliance, then?

Mr. EDWARDS: I think that this is a problem which we have not fully worked out at the present time. I think it will have to be considered, because if the bargaining units are going to represent occupational groups, obviously, there will have to be some question of the autonomy of occupational groups within it.

We do not look on this as a problem because at the present time all of the components of the alliance, through this structure that we have, make the policy on the basis of a board of directors, and so on. It is not policy that is made at the top, it is policy that comes up from the bottom, and the occupational groups will certainly be represented in the component structure.

Mr. BELL (*Carleton*): Thank you, Mr. Chairman, I will defer in favour of someone else.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles?

Mr. KNOWLES: Mr. Chairman, I have a general question in another area that I would like to ask, but before I do so may I ask a supplementary to one of Mr. Bell's questions?

I refer, in particular, to the references made to the National Joint Council. Mr. Edwards, you may have heard me ask Mr. Barnes this question the other day, namely, are those of you who are now on the National Joint Council from the employee side prepared to see the membership enlarged, and prepared to have, on that National Joint Council, representatives of all the various groups?

Mr. EDWARDS: Yes, I think it can only function on that basis in this new setting.

Mr. KNOWLES: That seems to make it unanimous. Mr. Chairman, I would now like to ask Mr. Edwards a question which relates, I suspect, to the first problem with which we will have to cope, as a committee, when we get down to the legislation itself. I think it has been put before us rather clearly by the different philosophies which have been before us.

Mr. Heeney, speaking for the legislation as we have it, argued the case for a collective bargaining regime in the public service different from what we have in the private sector. On the other hand, the unions, representing the postal workers, have argued for being included under the I.R.D.I. Act rather than under Bill C-170.

May I say that I do not think we should over-simplify this and say "Is there a choice between Bill C-170 and the I.R.D.I. Act?" but I think the basic problem is there: Should the civil service collective bargaining be under a regime which is like that in the private sector, where those who defend it say there is equality between the two sides, or should it be under a set up like that in Bill C-170 where, as some of us see it, there does not seem to be quite that same equality between the employer's and the employee's side.

I am sure you have heard the arguments of the postal workers. You have also heard the arguments advanced this morning by those representing the employees of the Printing Bureau. I think we can forget for the moment their concern about their crafts. The fact is that they expressed a desire for the kind of collective bargaining with their employer, namely the Queen's Printer, that they have with their employers in the private sector.

I do not think you commented on this problem when you were before us on previous occasions. I think the tendency on the part of the federation and the association was to accept this legislation and try to improve it in some detail; but, as a committee, I suspect that this is going to be our first problem—which general approach to we take?

Would you care to make a philosophical comment on that philosophical question?

Mr. EDWARDS: It will have to be a philosophical comment.

I think, first of all, I would like to say that I believe that the bill tries to satisfy widely divergent opinions in the public service, in a work force that encompasses about 200,000 people, from people at the blue collar end of the work force—and I do not say that in any disparaging way—to the upper echelon—

Mr. KNOWLES: You mean you are not disparaging the white collar people when you say that?

Mr. EDWARDS: That is right.

—to the upper echelon of the administrative classifications.

I think that when you have a problem such as this, where you are going to bring this widely divergent work force under collective bargaining, the instrument that you find in the private sector of the Industrial Relations and Disputes Investigation Act is not going to be sufficient to do the job unless you are prepared to modify that in many ways.

For example, I think the Industrial Relations and Disputes Investigation Act would prevent many of the people in some professional categories and senior administrative and supervisory categories from coming under collective bargaining in the public service. It also does not provide for an arbitration system which is binding on both parties; it provides for voluntary arbitration, if it is acceptable to the parties, but not, from the start, a binding system that is likely to continue other than on an *ad hoc* basis.

Many of the people who are likely to come under collective bargaining in the public service are quite prepared to at least try a system of binding arbitration, providing it is binding on both parties; whereas there are many people in the public service to whom the words "compulsory" or "binding arbitration" are abhorrent, and they do not want any system such as this.

For these reasons, amongst others—and I think there are many others which could be mentioned—I think that what the public service has to have is a bill that is generally tailored to the public service.

I certainly want to see amendments in this legislation, but I do not think the answer is amending the I.R.D.I. Act to make it available to the public sector.

Mr. KNOWLES: But you think it might be worth our while to try to achieve some amendments to Bill C-170, which would import into it some of the things that are now in the I.R.D.I. Act?

Mr. EDWARDS: I think that this is particularly true, particularly for the groups of people who would want that type of thing in this legislation. But I think this legislation has really tried to satisfy all of the segments of the public service which are likely to come under bargaining legislation.

Mr. KNOWLES: You said that one of the reasons that the I.R.D.I. Act—you know, we really should get a name for that that is as easy to say as ARDA—

An hon. MEMBER: It is wise to be careful!

Mr. KNOWLES: My apologies. Where was I?

An hon. MEMBER: Actually you might have been some place else.

Mr. KNOWLES: It is these people up here who are not married yet, but are living together, who put us off!

Mr. Edwards, you said that the objection of some civil servants to using the I.R.D.I. Act is because there is no provision in it for binding arbitration. I do not wish to argue with you, but, of course, you realize that this is the very reason that some sections of the civil service do not like Bill C-170, because it does

have in it what to them almost seems to be binding arbitration, notwithstanding the element of choice that seems to be in clause 36 and in other places.

We do not need to spend time arguing about this—there are points of view both ways—but I would like to move on to this question: If it is true that we have, as you say, a body of 200,000 to think about, and if it is desirable to tear our legislation to meet the needs of the public service, is there then anything wrong with having legislation which treats some sections of the public service one way and some another. In other words, is there anything in having the classified civil servants generally, the professionals and so on, under the kind of regime that is set out in Bill C-170, and having the postal workers under the kind of regime that is typified by the I.R.D.I. Act?

Mr. EDWARDS: I do not really know if there would be something radically wrong with that. What I would be concerned about is that we have spent about three years, at least the government has, in producing the present legislation which, I think, does do what you are suggesting—allows employees a choice.

I would not like to see it become another year or two year period of gestation before you finally got into collective bargaining. I think delays in the process by taking the present act and deciding to make two acts out of it would create even more difficulty.

I think that the present act does allow the choice of the bargaining unit and people will change in their opinions, and can change in their opinions, under this particular legislation. What disturbs me at times is that people who do have a choice are not only wanting to take the choice but they want to inflict on some other group or people what their decision is in reference to their own choice. I think that this bill does permit an area of choice. I admit that the provisions and how it is done is not to my liking but, at least, there are really two ways of handling the dispute machinery under this bill. One is very similar to the Industrial Relations and Disputes Investigation Act with some modifications and the other provides another system.

Mr. KNOWLES: Would you not agree, Mr. Edwards, that there are some people who seem to want to impose their way of resolving this on others, but this works both ways.

Mr. EDWARDS: Oh, yes.

Mr. KNOWLES: Those who do not want compulsory arbitration may be wanting legislation without it even though others accept it.

Mr. EDWARDS: I am not casting stones at either camp with this argument.

Mr. KNOWLES: We really need not pursue this any longer. Our philosophical points of view are clear. If I may say so, I think that your statement, which is along the lines of what is in Bill No. C-170, set alongside of the clear statements made by the postal workers unions, the Canadian Labour Congress and others, does highlight the problem for us. We have to deal with that when you people go to the back of the room and we go clause by clause.

I would like to ask, Mr. Chairman, just one other question. If you accept the general philosophy that is set out in Bill No. C-170 but at the same time think that there should be some changes, what would you say about clause 36? This is the clause that says that the choice as to whether you go for binding arbitration or conciliation including the right to strike must be made before certification is granted.

Mr. EDWARDS: This is one of the points we do not like in this legislation. We think the choice is in the wrong place. We think the choice should be made at the time of impasse. Up to that stage we think the bargaining relationship is such that you have not reached an impasse and that it is a matter of settling a dispute. So long as you have bargaining without either hands being tied on whatever the situation is, you have not made the decision as to how you are going to handle the dispute because you have not reached the dispute stage. We think that certainly the present situation of stating which way you are going to go in dispute settlement, even before you are certified, is unacceptable.

Mr. KNOWLES: I was looking around to see if my friend Francis Eady was here. I was so glad to hear you put it that way. In all fairness to him, as a witness this morning, he did admit that he was offering a compromise, namely, that this decision might be made after certification rather than later in the picture, if I may say so. This is the only statement I will make in this questioning. I thoroughly agree with your position that the time this choice should be made is when an impasse has been reached, when a dispute is on. You will agree, no doubt, that there should be some time element as to when this could be done.

Mr. EDWARDS: Oh, yes.

Mr. KNOWLES: If the two sides are going to have any kind of equality of bargaining, surely they have to have rights in terms of deciding strategy when there is a dispute on.

Mr. WALKER: I have a supplementary question. This particular subject has given me some concern but I am wondering if there is not another choice that is to be made. So far all we have been talking about is the choice of two streams, either conciliation or arbitration, and that choice to be made by the bargaining agent for a particular group of people.

I wonder if there is not a pre-choice that has to be made—and perhaps this has been overlooked—the pre-choice being the choice of employees as to who will be their bargaining agent. I wonder if the bargaining agent does not owe a responsibility to the people they are trying to organize by stating to those people their viewpoint so that employees know all the facts before they choose their bargaining agent, rather than being, if you will, captive of an agent who may decide afterward to do something that if the employees had known about early, might have had second thoughts about choosing that particular agent. This is another area, and this may be the reason the clause is in the bill—I do not know. Had you considered this at all as part of the reason it might be in?

Mr. EDWARDS: Yes. I know Mr. Doherty would like to comment on this.

Mr. DOHERTY: Yes, if you will accept an answer from me, sir.

Mr. WALKER: Oh, certainly.

Mr. DOHERTY: I think there has been a divorcing of two entities here that are really one. The people in the bargaining unit are the bargaining unit. This does not rest with anyone else. The bargaining unit will select its officers in its own way; its members will determine the policy of that bargaining unit, and it would follow that they will make the rules. There is no organization without membership.

Mr. WALKER: I agree, but how can that membership decide on which of the two bargaining agents they are going to have, if they do not know, prior to giving that control, the viewpoint of these two as to which channel they may choose later on.

Mr. DOHERTY: The viewpoint in a situation like this must come from the membership. Any organization that tries to inflict its viewpoint upon a membership is not going to last very long. What I am saying is that if the suggestions of the association are accepted here, it advocates, at a particular point in time in the collective bargaining system, that the membership will make a choice of which road they want to take, whether they want to take conciliation or arbitration. This is what we are advocating. There is no basic philosophy involved so far as our organization is concerned. We do not favour strike action and we do not favour arbitration. This would come from each bargaining unit. It would have to come.

Mr. WALKER: Mr. Chairman, might I just develop this a little bit. I am here to be educated. Is it not too late at that point because, if I may use this expression, the members are "stuck"; having made a choice of a bargaining agent, they are stuck with that bargaining agent, and if we put off the choice of those two channels until much later, those members, in choosing that bargaining agent, do not know which direction the bargaining agent may decide to take.

Mr. DOHERTY: The bargaining agent is the unit of members which will make this decision. There is no one outside that unit which will have any say in the decision. The bargaining unit itself would establish this policy. The same applies in international unions in Canada and in national unions in Canada. The strike policy or an arbitration policy is not imposed by the national membership; these decisions are taken within the bargaining unit itself. There is no policy developed outside that bargaining unit, if it is properly handled.

Mr. WALKER: The reason I am asking these questions, Mr. Chairman, is that it was my impression, simply as a member of the public—Mr. Knowles, will correct me if I am wrong in this—that a strike, when called, is called by the agent, to be ratified by the membership, certainly, but basically the decision is made by an agent.

Mr. DOHERTY: The permission to strike is first given by the membership. Let us take the industrial trade union picture in Canada generally, I do not know of any national or international organization in Canada that has within its national leadership or its local leadership the power to call its membership out on strike without first getting permission from its membership to do so.

Mr. LEBOE: I would just like to bring to your attention, sir, that in the last railway strike the operators were called out by their union without any reference to the membership.

Mr. DOHERTY: I would assume that the membership must have first cast a strike ballot in favour of a strike.

Mr. LEBOE: No, they did not.

Mr. DOHERTY: Well, this is an unusual circumstance so far as I am concerned.

Mr. LEBOE: This is the thing I wanted to draw to your attention. I have it directly from these people that they were not asked whether they should go out on a strike, they were told that they were on strike.

Mr. DOHERTY: I would not question your word, sir, I merely say that this is not my understanding. I know of no organization that has this power.

Mr. KNOWLES: It is the other way these days; the membership is forcing strikes on the leaders.

Mr. EDWARDS: I wonder if I might make a comment on this point. I think it might help clarify it for you if I said, if the present legislation goes through on an occupational group basis, we, with our present membership, will probably represent a majority of the occupational groups, and it seems quite likely to me that some of them will decide the bargaining units of those occupational groups. Some of them will make decisions to accept binding arbitration under this bill and others will want to accept the conciliation and strike process. We, as leaders of the organization, are going to be in a position where we are going to be telling some groups that we think that this is the proper machinery for them to use. We will probably be suggesting to other groups, as advice, because they expect to get advice from us, that perhaps this is the other method they should use in their situation. Obviously, if a bargaining unit is likely to have a large number of people who are designated in it as required for the safety and security of the country so that it removes the power that you might have to withdraw labour by strike action, I would think that our advice to that particular group is that the dispute settlement machinery they should seek under this bill is binding arbitration on both parties.

Now these matters will generally be known to the government, or whoever we bargain with, I think quite early on in the bargaining legislation. If there is, in any event, a period of time where after you have made a choice, you are stuck with the choice for three years and, obviously, once you have made the choice, the other party does know what system you are going to bargain under. I think so far as we are concerned in our organization, we are not going to be imposing a policy of either conciliation or strike or compulsory arbitration. We are going to point out, in all probability, what the act would provide, what their circumstances would suggest to us in reference to their bargaining power and their bargaining wishes and they are going to make the choice in the bargaining unit as to how we will act on their behalf.

Mr. DOHERTY: I would like to add, Mr. Chairman, that this is quite a usual procedure in the trade union movement; the leadership do recommend certain action for their members to take. But in the final analysis, that authority must come from membership meetings, strike ballots or whatever machinery they have.

Mr. KEAYS: Mr. Edwards has been referring to the words "bargaining unit" and I think somewhere in his brief a preference was shown for this term rather than the words "employee organizations". Could you please expand on that?

Mr. EDWARDS: It is my understanding under this bill that the occupational groups will be, in effect, bargaining units. They will be set up as bargaining units under the bill, and a bargaining agent that can represent over 50 per cent of the people in the bargaining unit would be certified as having the exclusive right to bargain for that group. In other words, the bargaining unit, as an

occupational group, would be represented by a bargaining agent which, in effect, would have exclusive rights to handle the relationships with the employer on their behalf.

Mr. KEAYS: The bargaining unit would have to have over 50 per cent of the employee organization; in other words, you could not have two bargaining units in any one employee organization.

Mr. EDWARDS: Oh, yes, you would be able to have a number of bargaining units within an employee organization. I see nothing in the legislation that would prevent that. It does not indicate that you have to have a separate employee organization for each bargaining unit.

Mr. BELL (*Carleton*): I think this may be the crux, Mr. Edwards, of some of us understanding the position in a particular department. Perhaps you could take us delicately by the hand and lead us through the situation in, shall we say, the Department of National Revenue, and tell us how you visualize the occupational groups, in that department, will be developed, who will be the bargaining units and who will be the agents. This is the problem that I have with the whole legislation. I cannot quite put it down over a particular departmental set-up.

Mr. EDWARDS: First of all, you are asking me to outline a situation that we are not solidly in support of. We have wanted bargaining on the basis of categories rather than on occupational groups, but if it should come out in the way of bargaining on occupational groups, in a department such as National Revenue Taxation, you might have a number of professional people who would be allocated to certain bargaining units composed of an occupational group. The lawyers would go into a bargaining unit composed of lawyers, as an occupational group of lawyers. The assessors would go into the auditing group and would be part of that particular group. But in some other departments, such as Customs and Excise, where you have excise tax auditors and professional accountants, they would also be in that group. And perhaps in the Department of National Defence, you might have auditors and accountants who would also be in that auditing and accounting group. And the occupational group, that the auditors and the assessors in the Department of National Revenue are in, would in effect be spread across the whole of the government surface and would take into that bargaining unit people doing similar work and with similar qualifications and similar skills.

Mr. BELL (*Carleton*): In different departments.

Mr. EDWARDS: Yes, in different departments, on the basis that the wishes, needs and the bargaining demands of a group of people who are occupationally oriented, whether they work in one department of government or another, are likely to be more clearly met in a bargaining situation on the basis of occupation. I think that this is the theory behind this. Therefore, it does mean that when you get down into the larger occupational groups, such as the clerical group, you might have some 30,000 people spread across the whole of the government service; yet it would be one bargaining unit, represented by a bargaining agent that, in turn, had in its membership at least 50 per cent of the people spread across the government service.

In our component style organization, the component would give to the central body the bargaining rights for the occupational groups in its component

structure, as a matter of constitutional right. The central organization, constitutionally, would delegate to the component in the department the right and responsibility of handling the grievance procedure and so on in the department, and the right to handle the bargaining of a particular departmental group if it were within the confines of that particular component.

This is in essence, I think, the bargaining relationship.

Mr. BELL (*Carleton*): Now you indicated that that was not the procedure which you would approve. What would your alternative be to that?

Mr. EDWARDS: Our alternative was to take the categories that were established by the preparatory committee and add one additional category of mail handling, and we would use the category approach to making category bargaining, and having the bargaining agent the employee organization that could represent the majority of people in the category. This, in effect, is the industrial style union, where you have a large group of people represented by one union, and they may consist of varying occupational trades, skills, and so on.

Mr. BELL (*Carleton*): How keen do you feel about that as opposed to the other?

Mr. EDWARDS: Well, we feel that this would have prevented a lot of difficulty in getting into collective bargaining because what we are concerned about really is that 66 occupational groups will set up a lot of rivalry in the public service—not only rivalry in reference to membership, which is one thing, but I think also rivalry with regard to achievements at the bargaining table. It is conceivable that there will be a fairly intense rivalry for the various organizations to produce, and this may cause difficulty in the two areas. You are going to have conflicts from one group trying to take over another group, and you are going to have the problem also of rivalry amongst the particular groups. I think the fact that we do have the Public Service Alliance will prevent that to some major degree because, as we are now constituted, representing over 100,000 people in the public service, we would in effect be able to represent quite a few of these occupational groups.

Mr. HYMMEN: Mr. Chairman, I presume we are going to continue with Bill C-170 first.

The JOINT CHAIRMAN: Yes.

Mr. KEAYS: Mr. Edwards, you probably have answered my question in anticipation. Do you foresee rivalry and a great selling job being done by your bargaining units, and do you foresee confusion and delay in the procedures set up.

Mr. EDWARDS: I think this can well happen because there can be delays. I think there will be intense rivalry at least up to the period of certification. Obviously once an organization is certified the rivalry will at least cease for a period of time. But what we are concerned about in this matter is that there may well be delays in certification. One aspect of the bill that bothers me is that there should be a period of delay of phasing it in over two years. If this should happen, existing organizations are going to be under extreme pressure to hold on to the membership they may have represented over long period of time.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Hymmen?

Mr. HYMMEN: I have one general question and several specific questions to ask Mr. Edwards, representing the alliance. You have told us about the impending marriage. I do not suppose it is any coincidence that it is the day before Armistice Day?

Mr. EDWARDS: I think it was a rather fortuitous date that we picked in the hope that peace will prevail on the 11th.

Mr. HYMMEN: It has been some time since we received the two briefs of the federation and the association, and we have had the supplementaries which, I do not suppose, were a resubmission. I have several questions on the original briefs.

In reading all this material, I had the impression that in the collective bargaining bill your association, the alliance, representing, I believe, some 115,000 people, felt that in spite of some strong views and reservations the legislation, when it is finally approved, should be passed at the earliest possible date, and while there were many, many problems involved I got the impression you felt these problems could be worked out in the media which would be created. Am I right on that?

Mr. EDWARDS: I think, generally, you are quite correct. We are very anxious to see the collective bargaining legislation pass. It has been a long time aborning and we want to bargain under legislation. Generally we would be quite prepared to try and work out our difficulties in the bargaining relationship. There are some areas we hope the committee will certainly change but we would be prepared to live with the legislation and make the changes accordingly as we gain experience in this bargaining relationship.

Mr. HYMMEN: It is an entirely new venture?

Mr. EDWARDS: That is right.

Mr. HYMMEN: My other question was partially answered but I would like to ask it anyway. On page 4 of the federation's brief you mentioned some concern about chaos in arranging bargaining units. Is this matter still of major concern or what is the present position?

Mr. EDWARDS: I think this is still a matter of concern, as I pointed out a moment ago, particularly if there are going to be delays in certification—and this is one matter that is likely to cause a lot of difficulty. I also believe that if you have a multitude of bargaining units you can expect that there will be difficulties. I think the situation has improved since the initial brief of the federation was written because of the fact that we have been able to iron out our difficulties in the merger of the CSAC and the federation. So, there is less likelihood of this happening now because at least two of the rivals have married.

Mr. HYMMEN: With regard to the delays which have been mentioned before, I think you, probably as much as anyone, understand the intent of the procedure. Do you support the intent?

Mr. EDWARDS: Well we believe the reason for the phase-in certification was so that it would not upset the cyclical approach to salary review. We were quite prepared to accept phasing in the pay portion of this matter and doing it on a cyclical review basis that would not upset it, but we felt that there should be a means of certification to deal with many of the problems other than pay. Other

than this you leave everybody in limbo for a period of time where there is no real way of representation at all; there is not even any provision for consultation. So, if we do not have certification and do not have recognition, who do we deal with in the way of problems other than pay? We are quite prepared to consider that pay should be a cyclical pattern and should maintain this cyclical relationship, but we feel we should be in a position to deal with these many other areas. We think the only way this can be done is through some process of recognition, preferably certification, and it would also prevent the conflict that will result from present organizations that have existed for a long time and done their best to represent their members under an old system not being able to move into the new system with some safeguards with reference to their present status.

Mr. HYMMEN: I have one final question. You mentioned—I do not know which brief it was in—that the legislation is too complex. Now I think we have to admit that the basis for the bill was certainly the report of the preparatory committee. The chairman of the committee told us that they wanted to make this as simple as possible and yet they felt various things had to be included. Now if you think it is too complex, what part would you have left out?

Mr. EDWARDS: That is an extremely difficult question when you pin it down to specifics. My colleague has told me there is an item in the bill about bulletin boards. Well, we think this is one item that might have been saved; it could have been worked out between the parties. We think also that perhaps the sections on grievance procedure might well have been worked out with the parties. I do not think it was a case of the preparatory committee putting into legislation only what they felt would protect the government; I also think they were putting into legislation what they felt might protect the employee organization. I am not going to say that all the blame is one way in this but I think perhaps they were overly concerned that the relationship between the parties might not be able to produce the things that it should produce in a good relationship?

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. WALKER: Mr. Edwards, many of the witnesses who have been here to date have put forward proposals that would practically strip the Civil Service Commission of nearly all their duties. Would you like to see this situation arise?

Mr. EDWARDS: Well, frankly, no, I would not because I think the Civil Service is different to private industry. I think one of the major concerns of civil service organizations, with all due respect to the Members of Parliament, is to eliminate patronage in the public service because we are concerned that the merit system be maintained, and I think the commission is necessary in this area. Collective bargaining is not going to take unto itself all the people that are in the public service. There are a lot of people that are left out by the terms of the bargaining bill. I think there has to be protection for those people with regard to the tenure of employment, how they are selected, promoted and so on in the public service. I think it has to be an independent commission with full independence to do this. I feel there is a real role for the commission, not only in this, but in developing more career programs for employees and things of this nature, which I think can well be done by an agency such as the Civil Service Commission.

Mr. WALKER: I am very glad to hear you say that because many of the other witnesses have put forward suggestions which would have the opposite effect—at least, this is my interpretation of them.

Mr. BELL (*Carleton*): I do not think anybody wants to strip the Civil Service Commission.

Mr. WALKER: I would recommend that all members of the committee read the minutes of today's meeting when they are printed. The question of delegation of authority appears to give you some concern. Were you here when Mr. Carson of the Civil Service Commission presented his brief?

The brief, which I have here, states: "We will not hesitate to rescind or modify the extent of delegation in any given case if there is evidence to support such a decision, nor will the commission hesitate to identify to Parliament those persons who have abused their delegated authority". Now, I think your brief had been presented before you heard his submission.

Mr. EDWARDS: I had not heard the statements of Mr. Carson. I think Mr. Carson's statements are very reassuring but I would like to be very sure, in the delegation of authority, that the commission not only post-audits something that is happening but also does pre-audits and pre-checks and does everything it possibly can to make sure that the delegation is carried out properly, and remove it immediately if it is not. I can understand that the delegation of many of these things is necessary if you are going to streamline the rather cumbersome machinery of hiring people and selecting people and promoting people, but we are very concerned that you do not put deputy ministers and heads of departments in a position where they may be under undue pressure that they cannot withstand and which could be more properly withstood by an independent commission. Our concern really is not in the delegation of power; it is in the control of that delegation, to make sure that there is absolutely no abuse of delegation.

Mr. WALKER: Just one further question. The other members of the committee may not agree with my understanding of some of the suggestions in the brief that were given earlier today, but it seemed to me—and it was so stated—there was some expressed lack of confidence in the independence of the chairman of the public service board, and the board itself. There was a lack of confidence that there would, in fact, be real independence of the board, quite separate from government. Do you have confidence in the independence of such a board? I am speaking now of independence from government, from the employer as such.

Mr. EDWARDS: I think that we have confidence that the Public Service Staff Relations Board will be established as a board that is separate from government. We want to be part of any consultation process in order to select the best person possible, without any doubt that they are fully qualified to do the job and with no thought that this is, in any way, a political appointment. It should be an appointment of the best person they can possibly find to handle that particular position. I think our concern has really been expressed in reference to the power of the board in some areas, and particularly the chairman. We feel that the chairman should not be placed in a position where his own decisions cannot be reviewed by his own board. The complete power of the chairman in some of these areas gives us some concern. We have a lot of faith in having a

good board and making sure that it is established so that it will do a good job, but we do want to make sure that too much power is not delegated in the hands of one person.

Mr. HYMMEN: Mr. Edwards, regarding the question that was asked with reference to the statement by Mr. Carson, would you feel better if there were more spellingout of the controls over this delegation of authority on behalf of the commission?

Mr. EDWARDS: I would like to see some spelling out of the delegation of authority.

Mr. WALKER: In the legislation or in regulations?

Mr. EDWARDS: In regulations.

Mr. BELL (*Carleton*): A spelling out of what nature?

Mr. EDWARDS: Provision for carrying out the auditing of the commission, how it would be done, making sure the authority to remove the delegation is there, what would happen in the event that the delegation is abused, and so on. I am not as concerned about how it is going to be done as about the fact that it is going to be done. The mechanics of doing it, whether it is in regulations or the act, is something that I do not really feel confident to comment on.

Mr. ORANGE: In that connection, Mr. Chairman, I would like to ask Mr. Edwards if, in the spelling out of the authorities he would envisage that the commission would have a role in auditing the promotion function of departments as allocated by the commissioner?

Mr. EDWARDS: Yes, I would.

Mr. ORANGE: Would you say that the bargaining unit would also be involved in this process?

Mr. EDWARDS: Under the present legislation, of course, this is removed, but I think it should be brought into the bargaining relationship. There are difficulties, I will admit, in marrying up the merit system with the bargaining relationship but I think that certainly this is something that could be done. Whether it can be done initially or not, I am not at all certain. We are concerned about the things that are left out of the bargaining relationship, such as classification, promotion, demotion, layoffs, and so on. We think some of these things can be dealt with under agreement. There are many areas, of course, where people will not come under the bargaining relationship. Of course, they have to be considered at the same time. In reference to promotion, there may well be bargaining units where seniority factors should be considered much more than they are at the present time. I think there has to be some development of this area.

Mr. ORANGE: Under the legislation which is in effect at the present time the only opportunity the employee has, in terms of promotion, when he is not successful in a promotional competition and wishes to appeal, is to call on you or some other person to act as his agent on the Appeal board, and under the new act this still exists, does it not?

Mr. EDWARDS: That is right.

Mr. ORANGE: What do you see is the difference between that system and the system we would like to see, where there would be more consultation with the bargaining unit in terms of promotions?

Mr. EDWARDS: I think some parts of these problems might well have been handled under appeal procedure, but the appeal procedure in these matters that come under the merit system is really there to provide a grievance procedure to handle matters that come within the scope of the commission in the protection of the merit principle and the merit procedure. I am not suggesting that perhaps this change has to be made now. I think it may well be a developing process under the collective bargaining relationship, but I think there is scope for moving some of these areas into the bargaining relationship through the grievance procedure and protection of the grievance procedure. I think at the present time we have not even got a grievance procedure in the public service except in one or two selected areas or departments, so I believe this will be a developing process, but at the moment I would leave them where they are and hope that we could move into this area as we develop.

Mr. ORANGE: Am I to assume, then, that you are not so concerned about the words "political patronage" as the words "administrative patronage"?

Mr. EDWARDS: I think we are concerned about both.

Mr. WALKER: You can forget about political patronage. As a member of parliament, we do not get anywhere with the Civil Service Commission.

Mr. EDWARDS: I am very happy to hear that. It is very reassuring.

Mr. ORANGE: Your concern is within the framework of certain departments—I will not mention any particular area—there can be a tendency for the departments to be inbred, and to not draw on the civil service as a unit to select the best people for the jobs?

Mr. EDWARDS: I think this can be decidedly true. I think you can have administrative patronage—if you want to use that term—equally as much as you might have some political form of patronage. I think we have to be concerned, if it is a merit type of appointment, that the best person available has an opportunity in the position.

Mr. ORANGE: Then how do you see the alliance fitting into a scheme whereby you would be involved in the promotional aspects of the civil service?

Mr. EDWARDS: I am not too sure I understand how you feel we fit into the promotional aspect. I think, for instance, we might be concerned with the standards, how the promotional competition is going to be held, who the people are who are going to be on the board, what the avenues of grievance in respect to an unsuccessful candidate are, things of this nature. I do not feel that we have a part, really, in determining who the successful candidate is. Our real role is to make sure the choice which has been made is fair and objective to all the people concerned in relation to this. I think this is our role.

Mr. ÉMARD: I have a few questions which may not be directly related to the bill but I think they may have some importance. If I understand correctly, the pay research bureau is what you might call a section of the Civil Service Commission, is that correct?

Mr. EDWARDS: That is correct. It is under the Civil Service Commission now.

Mr. ÉMARD: And no employee association is represented on that board?

Mr. EDWARDS: This is not quite correct. There are three representatives of staff organizations on the pay research advisory committee. That is a committee composed of staff side representatives and official side representatives, chaired by a commissioner, which develops general policy, and so on, for the pay research bureau respecting the types of surveys they would handle, what they would do, how they would handle them, the types of material, and so on. In other words, the general direction of projects for the bureau. There is a director of the bureau, of course, to determine how these things will be done and the priorities that can be handled and how it can be administered within the bureau. But there is some say in the area which will be handled by the pay research advisory committee.

Mr. ÉMARD: Will you have access to all the findings of the bureau? For instance, if you want to find out what a certain company is paying, will you be able to find out or will it just be what the bureau publishes?

Mr. EDWARDS: Well, it will be what the bureau publishes, but we have no reason to suspect that the bureau, if it is properly directed, will not obtain the information from whatever the selected universal companies are. When the bureau publishes its report at the present time the companies are not pinpointed so you know what company is paying what wage, but you do know the aggregates which are paid, you know the means and the various statistical measures of wages which are paid, you have geographical dispersion of people, and so on, and where these wage rates are paid. I do not think there is any attempt on the part of the bureau to withhold information from either party. I think there has to be, in order to satisfy the people from whom they obtain the information, some degree of preventing that information being misused, because if you produce information, which is readily available to a number of people, that pinpoints the wage rates of specific companies you are not going to get the co-operation of these companies in giving you that information. If the pay research bureau is going to do a good job of obtaining information, they have to protect the companies from which they are obtaining the information. I think they have built up this relationship over the past and I see no reason why it would not continue.

Mr. ÉMARD: Is it correct in some cases you can obtain the average pay for three companies of comparable size?

Mr. EDWARDS: Yes, you can obtain the average of a number of companies depending on whether it is manufacturing, service industries, and so on.

Mr. ÉMARD: Do you intend to have a research office in your organization?

Mr. EDWARDS: Yes, we do. We have one now.

Mr. ÉMARD: You have one now? This is what I would like to know: how many full time officers do you have in both organizations?

Mr. EDWARDS: In the research department?

Mr. ÉMARD: No, full time officers in both organizations?

Mr. EDWARDS: We now have in the Civil Service Federation a staff of about 37 people and the Civil Service Association, I believe, has 30 people?

Mr. DOHERTY: About that. A substantial number of these are field staff.

Mr. EDWARDS: A substantial number of these are field staff because we have offices across the country. We have a research department consisting of a research director, two assistant research directors and, at the present time, three research officers. We will be expanding this under the alliance in order to do the work of preparing arguable submissions on a factual basis.

Mr. ÉMARD: How many of these officers are elected?

Mr. EDWARDS: How many officers are elected? At the present time in the Civil Service Federation the president, two vice presidents and the treasurer are elected officers to the federation. All the people on the national council representing presidents of various associations are elected. The paid staff of the component organizations quite often represent their component organizations on the executive committee of the federation. The management committee of the federation is composed of an executive secretary, who is not elected, a president, two vice presidents and a treasurer. These four others are elected.

Mr. ÉMARD: When officers lose their elections are they returned to their jobs in the civil service?

Mr. EDWARDS: Well, this has happened in the past. There is no assurance under the present Civil Service Act that they will return to their own job or previous job. The only thing that the Civil Service Act provides at the present time is that if there is a position in the public service for which they are considered qualified they may be placed in that position. They are on a leave of absence basis but there is no assurance given by the commission, or asked for by the employee, that there is a specific job available to him. I do not think it should be on that basis. I think the way the present regulations apply are good as far as the employee is concerned and as far as the government is concerned. It really allows an employee who is on leave of absence from the government portability of pension and portability of group surgical and medical insurance plan, but not too much else. There is an assurance he can go back into a job if they consider he is qualified for the position and if there is a position vacant.

Mr. ORANGE: There is no guarantee of permanent employment at a salary regardless of where he goes?

Mr. EDWARDS: There is no guarantee. When he leaves a position on a leave of absence basis that position is filled. It is not a case where the position is held for him to go back. He has, perhaps, the same type of situation as a parliamentary assistant, or someone such as this.

The JOINT CHAIRMAN (*Mr. Richard*): Let us go back to Mr. Émard, please, Mr. Orange.

Mr. ÉMARD: Are all the present officers of the association former civil servants or did you hire them from outside?

Mr. EDWARDS: Do you mean the paid staff?

Mr. ÉMARD: Yes, the paid staff.

Mr. EDWARDS: We have brought the paid staff in from various places. Our executive secretary in the Civil Service Federation, who has been executive secretary for about the last seven years, and before that was with one of the organizations, has never been a civil servant. We have on our research staff people who were outside the civil service in various occupations when we brought them in. We have not made it a point of just hiring people from the civil service.

Mr. ÉMARD: You can hire somebody from outside?

Mr. EDWARDS: Oh, yes. There is nothing to prevent us from doing that.

Mr. ÉMARD: If your organization should choose the strike option, do you intend to have a strike fund? There may be a more polite word I could use.

Mr. EDWARDS: I think if you are going to effectively handle a strike situation and if it is going to be over any length of time, you must be prepared to build up some form of strike fund in order to provide something to your members. Mr. Doherty has pointed out that this is convention policy. Convention, of course, would have to decide that because it is really a matter of dues. At the present time we do not have any such thing as an established strike fund.

Mr. ÉMARD: One thing we have not talked about, and I consider very important, is that once a contract is signed you must have a staff which is prepared to police this contract. The policing of the contract usually is not done by the head office, this is done through the field. Now, do you intend to have some training for your stewards all across the different—

Mr. EDWARDS: Yes, we do. We have already been discussing this. In our new establishment there is a position for a senior person who will have the direct responsibility of training, legislation, and so on, for stewards and shop steward training. We have already discussed this with many of our organizations. As we pointed out, we have a field staff which we have now brought together. We have district officers in all of the capital cities of the provinces across Canada and we would be broadening out that particular field service and actually training stewards in how to handle the problems of grievances and police contracts and deal with the actual terms and conditions of contracts.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles?

Mr. KNOWLES: Will your new building on Argyle be large enough for your larger family?

Mr. EDWARDS: No, it will not, Mr. Knowles. We are already thinking in terms of other space. At the present time under the alliance we will actually be using the space at 88 Argyle as well as the space at 1312 Bank, the offices of the Civil Service Association.

Mr. KNOWLES: That kind of a marriage, is it?

Mr. EDWARDS: We have to use all the facilities of each party.

Mr. ÉMARD: May I ask an embarrassing question—well, not too embarrassing.

The JOINT CHAIRMAN (*Mr. Richard*): If it is too embarrassing we will rule it out of order. Are you through, Mr. Knowles?

Mr. ÉMARD: Do you intend to ask for the Rand formula or compulsory membership?

Mr. EDWARDS: We intend to ask for the Rand formula in areas where we have a bargaining unit relationship and we are asking as the bargaining agent. We think that this should be negotiable under the terms of a contract and certainly we would ask for an application of the Rand formula.

Mr. KNOWLES: Mr. Chairman, in that connection, I wonder if there is some way that we can get figures of the present membership of public servants in the various organizations. We have been asking each body that comes before us how many members they have and Mr. Edwards tells us the alliance has something over 100,000. We have had figures from the postal workers and other unions, and so on. There is a long list, the Public Service Alliance, the Professional Institute and various craft and industrial unions, prevailing rate employees, the Christians and various other groups. It is not fair to ask Mr. Edwards for the total; he can give us his but—

Mr. DOHERTY: Mr. Knowles, before you go on I would like to introduce another biblical remark here because I think you have already had one. I think it should be "Bear ye one another's burdens" in case you are thinking of another organization.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Knowles, I think the secretary might have to do a little research work on this.

Mr. KNOWLES: I am not suggesting that this makes the picture for the future rigid but I think it would be useful for us to know how the 200,000 civil servants line up at the present time.

The JOINT CHAIRMAN (*Mr. Richard*): It seems to add up to at least that now, from the figures given by the parties.

Mr. KNOWLES: From the figures we have been given we have probably got 400,000, members of various unions out of about 200,000 employees.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. EDWARDS: Did you want an answer to this? The figure that we have been using is approximately in the area of 105,000 to 110,000 at the present time.

Mr. KNOWLES: That is the joint figure?

Mr. EDWARDS: This is between the Civil Service Federation and the association. Now there is some fluctuation here. There is some dual membership throughout the whole of the organization because we do have people that belong to unions as well as belonging to the Civil Service Federation or the association. It is a fluctuating membership, of course, as you know, because there are about 25,000 separations every year in the public service and about the same number of people coming in. Also we have the difficulty that we have not really had an accurate count of membership in the last three years since it was last done by the preparatory committee. They prepared a machine run of membership statistics for the various organizations. Most organizations have not had their card systems set up so they can make an accurate total count. We do it by pay roll check-off. Payroll check-offs sometimes vary and it takes months to catch up and you will have duplications and it becomes an extremely difficult

job to do a completely accurate count of membership in a large group. But I think the figure we have been using of over 105,000 is quite an accurate one.

Mr. KNOWLES: I was not questioning your figure, Mr. Edwards; I was just interested in having the total figure.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, but we are still faced with the dual relationship where some employees are members of both groups. That is why we run into a large figure. Mr. Orange did you have a question?

Mr. ORANGE: Mr. Edwards answered my question about payroll check-off. Just before we conclude, was this only on Bill No. C-170?

The JOINT CHAIRMAN (*Mr. Richard*): No, it is on the three bills.

Mr. ORANGE: Well I have a further question with regard to one section in bill 181, namely the matter of entry into the civil service. At the present time a veteran who has served overseas has priority which allows him initial entry, in preference to any other non-veteran, into the civil service. Once he enters the civil service he can move ahead in three ways: one is through promotion within the department, the second is through interdepartmental competition and the third is through open competition. I asked this question the other day of the Professional Institute. Do you have any views with regard to the use by the veteran, of the veterans preference a second, third or fourth time during his career in the civil service?

Mr. EDWARDS: I think under normal circumstances it should be a matter of entry into the civil service on an open competition. I think that you can have situations where there will be open competitions and a veteran uses it again, but sometimes I am rather concerned about having a situation develop where there is or can be a misuse of this particular thing—I do not think this happens too often—you have some selection of the type of competition which might be used, whether it is an open competition or a promotional competition, to perhaps restrict a veteran from applying. I think one of the dangers in the preference matter, as far as veterans are concerned that perhaps has to be considered, is that sometimes you will have a situation where a veteran might qualify for a position but the selection board might not want him to qualify at the top of the list and, if he is given his veteran's preference, he automatically qualifies at the top of the list. This can be a disadvantage to him in a situation like this because they might be prepared to place him on a list in somewhere other than a qualifying position and by allowing him the veteran's preference it will be the top of the list or not at all and it might well happen that it is not at all. I think this is unfortunate when it does happen. I think as we get farther and farther away from the particular requirement of rehabilitating veterans into the public service, this particular area will have to be examined to see whether there should be some change to a point system or a point system even on promotional competitions for veterans, and so on. I think it is worthy of re-examination but I am not suggesting in any way, shape or form that there should not be a preference for a veteran in getting into the public service on the basis that he has served his country. I think this requires a preferential treatment with regard to employment. I think in other areas it might well be a case of examining this in respect of seeing whether there might be some modification. Perhaps even whether a veteran should get some preferential treatment with reference to promotions on a point basis.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Hymmen.

Mr. HYMMEN: Mr. Chairman I have just short questions, or at least I think they are short.

You mentioned something that other groups have mentioned, namely, appeals and the right denied to the appellant to be represented by a staff association. If this wording were changed that would avoid this objection?

Mr. EDWARDS: We want to have the right for the representative of an employee to speak for him. We think this has to be in an appeal situation. Many employees, who have never been through the appeal procedure, are absolutely scared to death of what could result, what could happen to them. They need someone to be there to give them some confidence, to be able to field questions for them. I think this should be in the act. It should not be removed. They should have the right of representation.

Mr. HYMMEN: I agree.

Mr. DOHERTY: There is an indication in the present draft that this right would not be denied but quite often the employee obtains a copy of the act and uses it as a guide to determine what his step is going to be and whether he should appeal or not. In this sense alone it is of value to the employee. In addition, it is good in a situation like this to lay down the right of the employee so that he knows he has a staff association to represent him.

Mr. HYMMEN: My final question may not be as short as the first one. You suggest in your supplementary brief that the C.S.A.C. proposes incompetence should be capable of definition and yet you did not offer to define it. Would you care to enlarge on that?

Mr. EDWARDS: I am going to duck this one to Mr. Doherty; he said that.

Mr. DOHERTY: I believe, and I am drawing on my memory now, it was defined in the Civil Service Act; at least that is the impression I have. Certainly the drafters of this bill must have had something in mind when they used the words. This seems to be a management responsibility. In this case I would rather stand back and be the critic.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: May I ask Mr. Edwards or Mr. Doherty if they are hopeful that with the advent of collective bargaining we will have seen the last of red circling?

Mr. EDWARDS: Very much.

Mr. BELL (*Carleton*): Mr. Chairman, I hope it will be long before that. If we have to wait for collective bargaining before we get rid of red circling, then there will be real trouble in the civil service.

Mr. EDWARDS: I share your views on that, Mr. Knowles, and I think they are shared by a lot of other people. We want to get rid of it as soon as we can.

Mr. BELL (*Carleton*): The day before yesterday.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Now, gentlemen, on Monday we will have before us the Canadian Labour Congress but I was wondering if tomorrow we could take the Civil Service

Commission because I understand—and this is informal—the members of the Civil Service Commission cannot come until some time later next week. Could we take the Civil Service Commission tomorrow only, just Mr. Carson from the Civil Service Commission.

Mr. ÉMARD: We have not had a chance to do any work in our offices this week.

The JOINT CHAIRMAN (*Mr. Richard*): One meeting tomorrow morning might do it.

Mr. J. J. CARSON (*Chairman, Civil Service Commission*): Mr. Chairman, I will be available next week.

The JOINT CHAIRMAN (*Mr. Richard*): Good. On what day?

Mr. CARSON: I will be available the first two days of the week.

An hon. MEMBER: It will take at least three days.

The JOINT CHAIRMAN (*Mr. Richard*): No, no. The first three days of next week? That is fine, then. I thought you could not be available until Thursday.

The next meeting will be on Monday at 10 o'clock.

"APPENDIX K"

Extract from the Priestley Commission pages 42 & 43.

Standing Advisory Committee

It is probably true to say that the appointment of a Standing Advisory Committee for the higher grades in the Civil Service is the most revolutionary recommendation of the Royal Commission.

The Standing Advisory Committee was appointed in February, 1957 and is now known as the Coleraine Committee after its first Chairman, Lord Coleraine. The membership is:

Lord Coleraine
Sir Alexander Carr-Saunders
Sir Geoffrey Crowther
Sir Alexander Fleck, K.B.E.
Sir Oliver Franks, G.C.M.G., K.C.B.
Lord Latham

Its terms of reference are:

"1. The function of the Committee is stated in general terms in paragraph 386 of the Royal Commission's Report—namely, to exercise a general oversight of the remuneration of the Higher Civil Service.

2. The Royal Commission defined the Higher Civil Service in paragraph 15 'as all staffs whose salary maximum or whose fixed rate exceeds the maximum of the Principal'. Under their recommendation this maximum was raised to £1,850; it has now been settled at £1,950.

3. The Royal Commission's main recommendations on the Higher Civil Service are contained in Chapter IX of its Report. Having accepted these recommendations, the Government have put into effect the rates of pay which the Royal Commission in paragraphs 367-369 regarded as appropriate for the Higher Civil Service. The rates recommended by the Royal Commission were related to conditions prevailing in the middle of 1955; they came into operation with effect from the 1st April, 1956.

4. Under the Royal Commission's recommendations the Committee will be called into action in various ways:

- (a) In the exercise of its general oversight of the remuneration of the Higher Civil Service, to advise the Government, either at the latter's request or on its own initiative, on what changes are desirable in the remuneration of these officers. The Royal Commission suggested (paragraph 368) that an early review of the level of remuneration would be called for, since they had deliberately refrained from making recommendations which might suggest that the Civil Service was in any way setting the pace or being in the van of a movement for a new approach to salaries for senior staffs.

- (b) Where there has been a general settlement applicable to the lower and middle grades of the Service. The Royal Commission said (paragraph 184) that it was not appropriate that the Higher Civil Service should be included in such a settlement; but they assumed that, when such a settlement was reached, the fact would be reported to the Committee, who would examine what, if anything, should be done for the Higher Civil Service in consequence.
- (c) When a claim has been put forward by a Staff Association on the pay of a grade within the Committee's sphere, and it has proved impossible to reach a satisfactory solution (paragraph 387). In paragraphs 388-389 of its Report, the Commission said that minor issues of remuneration on which agreement had not been reached should not be referred to the Committee, but should, unless there were good reasons to the contrary, be allowed to go to arbitration by consent. They added that, if genuine and serious doubt arose over whether an issue was major or minor, the Committee might possibly be asked to decide the point of interpretation.

5. An immediate reference will automatically be made to the Committee under paragraph 184 following the general settlement for the lower and middle grades of the Civil Service made in 1956. A separate note on this reference will be put to the Committee."

The Coleraine Committee went to work immediately after its appointment on the question of extending to the Higher Civil Service the Pay Supplement that had been agreed for the rest of the Civil Service at the time of the Priestley package. The Coleraine Committee recommended a comparable increase in Higher Civil Service salaries up to and including the Under-Secretary grade.

The Royal Commission Report had said (paragraph 368):

"We think, indeed it may well be, that an early review will be called for, since we have deliberately refrained from making recommendations which might suggest that the Civil Service was in any way setting the pace, or being in the van, of a movement for a new approach to salaries for senior staffs."

The Staff Side of the National Whitley Council has pressed on the Official Side that this review should be undertaken. As this Handbook goes to press, the Coleraine Committee is considering whether such a review should be undertaken in conjunction with the consideration that it must give to the Pay Supplement applied to the general Civil Service in July, 1957.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations
and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 12

MONDAY, OCTOBER 24, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Messrs. Claude Jodoin, President, and A. Andras, Director, Government
Employees Department, Canadian Labour Congress; Mr. J. J. Carson,
Chairman, Miss Ruth E. Addison, Commissioner, Civil Service Com-
mission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Representing the House of Commons

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Orange,
Mr. Ricard,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, October 24, 1966.

(20)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.30 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Ferguson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hymmen, Knowles, Lachance, Orange, Ricard, Richard, Walker (9).

In attendance: Messrs. Claude Jodoin, President, J. Morris, Executive Vice-President, A. Andras, Director, Government Employees Department, D. MacDonald, Secretary-Treasurer, Canadian Labour Congress.

The representatives of the Canadian Labour Congress were questioned on their brief to the Committee.

On a motion of Mr. Bell, seconded by Mr. Knowles, the Committee agreed to record as an appendix to the proceedings a list of affiliates covering government employees. (*See Appendix L*)

The Clerk of the Committee was requested to obtain a copy of the Order-in-Council dealing with the holding of public office by civil servants.

The questioning of the witnesses being concluded, the meeting was adjourned at 12.19 p.m. to 8.00 p.m. this same day.

EVENING SITTING

(21)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.15 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Emard, Fairweather, Hymmen, Isabelle, Knowles, Lachance, Leboe, McCleave, Richard, Tardif, Walker (12).

In attendance: Mr. J. J. Carson, Chairman, Miss Ruth E. Addison, Commissioner, Mr. Jean Charron, Secretary, Civil Service Commission.

The Committee questioned the representatives of the Civil Service Commission on their statement re Bill C-181.

The Civil Service Commission undertook to provide members of the Committee with a copy of a booklet prepared to better inform civil servants on the "Appeal" procedure.

The questioning of the witnesses being terminated at 9.55 p.m. the meeting was adjourned to 10.00 a.m. the day next following.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

MONDAY, October 24, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we are proceeding with the further presentation from the Canadian Labour Congress and examination by the members of the Committee. We have Mr. Jodoin and Mr. Andras present.

Mr. CLAUDE JODOIN (*President, Canadian Labour Congress*): Accompanying me also, Mr. Chairman, are two colleagues, officers of the Congress, Secretary-Treasurer, Donald MacDonald and Executive Vice President Joseph Morris.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Jodoin did you have anything new to add before examination?

Mr. JODOIN: I do not think so, Mr. Chairman. I think the document speaks by itself as far as the general position of the Congress is concerned on the proposed legislation. In the discussion we may have some further comments.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell?

Mr. BELL (*Carleton*): Mr. Jodoin, quite early in your brief you come to grips with what is, perhaps, going to be the first problem with which this Committee will have to deal, namely, whether the structure proposed under this bill is the proper approach, or whether it would have been preferable to amend the Industrial Relations and Disputes Investigation Act. I think some of your affiliates have, perhaps, taken a much stronger view even than the Congress itself has taken on this, but you do have an interesting discussion of this problem, and particularly of what was done in Quebec and in Saskatchewan on the subject. Have you had an opportunity to read what Mr. Arnold Heeney, Q.C., had to say on this subject, and would you care to comment generally upon what Mr. Heeney's presentation was to the Committee in this respect of affairs.

Mr. JODOIN: Through you, Mr. Chairman, I would like to tell Mr. Bell that not only did we study the report, but we also had a meeting in camera with Mr. Heeney and his colleagues on this, with a very—excluding the one who is talking to you—highly representative organization. Our organizations were very numerous that day although they were interested parties. Now, this puts me in a rather awkward situation, in a sense, because it was understood at that time that all those who were appearing before the Heeney committee were doing so completely in camera. As a matter of fact, we had a document that was tabled and given to the chairman of that committee, Mr. Heeney himself, and his colleagues, but as far as discussing *seriatim*, or just one stage more than another, I do not know what my position is now. This is the kind of understanding we had with the committee.

Mr. BELL (*Carleton*): Mr. Jodoin, perhaps I can help you. I think there may be some misunderstanding between us. I was not referring to the discussions

that took place prior to the preparation of the Heeney report; that is, the report of the preparatory committee on collective bargaining. I was referring to the brief which Mr. Heeney himself presented to this Committee publicly, and perhaps I can help you by suggesting that Mr. Heeney, I think, had five reasons why the preparatory committee did not adopt the I.R.D.I.A. road, but rather took the road of Bill No. 170 that we have before us. He suggested in the first instance that the preservation of the merit system would have required so many amendments to the I.R.D.I. Act that it would, in itself, have become cumbersome, and he took a strong position that the merit system ought not to be the subject of negotiation. Have you any comment in respect of that?

MR. JODOIN: As far as the legislation as such is concerned, I presume you have heard us say many times that we felt, generally speaking, that the civil service as well as those in prevailing rates jobs and so forth, employed by government should not be—and you have heard that many times—second-class citizens. Secondly, we felt that the government, whomever the government may be, should practise what they are preaching. In other words, if they have legislation established for industry, and so forth, which gives them the right they should have of collective bargaining, as well as the right to strike, which the bill, of course, grants under the circumstances, they should have it for public servants. This is the line we have always taken. As far as the structure itself is concerned, I think if my colleague Mr. Andras would not mind, because he is very hep on these matters, following every line, and checking the colons and the semi-colons too, probably he could take over here on this point that you have just suggested.

MR. A. ANDRAS (*Director of the Legislative and Government Employees Department, Canadian Labour Congress*): Mr. Bell, if I may. Mr. Chairman, we have not received a transcript of Mr. Heeney's evidence before you. We saw it in the newspapers. It might well be that some consequential amendments would have been necessary in the I.R.D.I.A., but as we suggest in our own brief, it would have been quite feasible to have placed the civil service under the Industrial Relations and Disputes Investigation Act.

In our own brief, we make the point that we are not seeking to overthrow the merit system. What we become involved in, in our brief is the degree to which the government in sponsoring the bill is seeking to preserve it, and we quarrel with them on some aspects of it. We are particularly concerned about some of the features of Bill No. C-181, which sets out the jurisdiction of the newly titled Public Service Commission. We argue in our brief that the government in its bills goes far beyond what we consider to be the necessary jurisdiction in order to preserve the merit principle. I should say this, to start with, that we do not endorse, necessarily, the Industrial Relations and Disputes Investigation Act in its present form.

MR. BELL (*Carleton*): I am sure you would like many amendments. So would I.

MR. ANDRAS: Well, at one time we submitted a very expensive series of proposed changes to the legislation—that was several years ago—but without prejudice to our views on amendments, or on our views on the bill as a whole, our feeling was that since it was a working instrument with a considerable body of experience that the same instrument could have been used for the public service as well as for those industries which come under the federal domain.

Mr. BELL (*Carleton*): Then basically your position is that there is not sufficient difference between collective bargaining in the public service, as opposed to collective bargaining in the the private sector, to require separate treatment.

Mr. ANDRAS: There is one important distinction that we are very careful to make, and that is that where an act like the I.R.D.I.A. is set up ostensibly to establish the rules between private employers and their employees, in the case of Her Majesty in right of Canada the bill is written for a unique employer. This is a very important difference to which we drew attention, and we recognize that. But with respect to the forms of collective bargaining, the question of disputes settlement, the determination of bargaining units, a variety of other matters that are dealt with in the legislation, the provisions of the I.R.D.I.A. could be made operative so far as the public service is concerned.

Mr. BELL (*Carleton*): May I take you to one of Mr. Heeney's other major points, and that was that under the I.R.D.I. Act the responsibility for setting up conciliation procedures is with the Minister of Labour who, in effect, is one of the employers. Mr. Heeney felt that this would require substantial amendment. Some other witnesses who have taken the same position as I think as the Congress has, say they would rather trust the Minister of Labour than an arbitrary board. What would your view on that be, Mr. Andras?

Mr. ANDRAS: Well, I will not make any comments about the Minister of Labour. I will say that particular authority in those circumstances could properly have been transferred to the Canada Labour Relations Board, which was already seized with very important responsibilities and could easily have taken that over. As a matter of fact, I think it would be safe to say that we would prefer to have it transferred, in any event. I am going back to those amendments which we suggested some years back. I would go forward, since we are talking about conciliation. We have reservations about the present system of compulsory conciliation, in any case, which has been in effect in Canada now for over 50 years. We think it is about time it was evaluated and the government is, in fact, doing so through this task force under Professor Wood.

Mr. BELL (*Carleton*): You have mentioned the Canada Labour Relations Board and this is another point that Mr. Heeney made, and I think I can quote from his brief,

The Canada Labour Relations Board would, unless some changes were made in this regard, be obliged to respond to the initiative of individual employee organizations in the determination of bargaining units.

He thought that necessarily was bad.

Mr. ANDRAS: Mr. Heeney has created a kind of Heeney dogma and we do not subscribe to it. Mr. Heeney has said in his own report, which apparently was persuasive, because it is in Bill No. C-170, that in the first instance, for the first two years, or two years and two months, the bargaining units would be determined by the Governor in Council. We do not subscribe to that at all. We do not agree with Mr. Heeney, we did not agree with him when we met him as the chairman of the preparatory committee. The initiative normally, in all the eleven jurisdictions, lies with the association of employees, and this is a reflection of our belief in this country in the right of association and the right of

employees to choose their own bargaining agents. Well, Mr. Heeney, and with much respect, the government, have turned this doctrine on its head, and we object to it very strongly. We object to the fact that there is a kind of extrusion here as it were—if I can use a term used in metallurgy. The employees are being compressed and extruded into the kind of association or bargaining unit that the government thinks is desirable—not the employee. And this to us is a very objectionable principle in a free society.

Mr. BELL (*Carleton*): Well, this is almost the basic objection you have to the bill.

Mr. ANDRAS: Very much so, sir, yes. We stated that very emphatically to Mr. Heeney when he was sitting as chairman of the preparatory committee.

Mr. JODOIN: It is a matter of principle.

Mr. BELL (*Carleton*): You see no necessity at all for this extrusion process you are describing?

Mr. ANDRAS: No. As a matter of fact, I was talking about this to some my colleagues privately the other day. We talk shop all the time when we meet socially and at other times.

We suggested to the Heeney committee originally that there should be a shakedown period. When we appeared before the committee two or three years ago, we said that we realized that there were a lot of organizations in the Public Service and here are all kinds and varieties of craft unions, departmental associations, industrial union types, and so on. We did not apologize for them or justify them. We simply said: "They are there. Let them shake down for two or three years. Recognize them all at the start and bargain with them, and it will settle itself."

Oddly enough, we have been vindicated because in about three weeks' time they will have shaken themselves down voluntarily into one large central trade union centre of civil servants; and these synthetic bargaining units would not really be necessary. You are going to have one large organization so structured as to form a national group with components, as they call them in the constitution. The bargaining units would have developed along rather natural lines. It would have been just as simple to leave it the way it is in the I.R.D.A. and the ten jurisdictions where there is labour relations legislation, without putting the governor in council into the position where it is going to determine, in advance, without considering the wishes of the employees concerned. It may consider them privately, but certainly not publicly.

Mr. BELL (*Carleton*): I think some of us will want to come back to this very crucial point later on, but I would like to continue with two further questions.

Senator FERGUSON: May I ask a question here? I would like to know, Mr. Andras, how you can be sure that they would shake down. How do you know that we will not continue to have a proliferation?

Mr. ANDRAS: We were not sure at all. We were faced with the situation where there were three centres, as it were—the professional institute, the Civil Service Association of Canada and the departmental organizations in the Civil Service Federation.

We have sufficient experience, as a trade union centre ourselves, to know that the structure which existed was not really workable. We knew that circumstances would drive the staff associations into new organizational forms. To us

this seemed to be an absolute inevitability, and we felt at the time that if these associations were given the opportunity to shake down, they would do it because they had no choice. As it happens, we were right. Our crystal ball, was a very effective one.

Mr. BELL (*Carleton*): Another point which was made by Mr. Heeney is that substantial amendments would be needed in order to ensure continuity of public services where the safety or security of the state, or of the public, was at stake. Do you, Mr. Andras, think that this is a problem, or is this a matter which, in fact, might be taken care of in the process of collective bargaining?

Mr. ANDRAS: It could be taken care of certainly by mutual agreement. It is taken care of in private industry in that fashion.

You are talking of the safety of the public. In private industry it is quite conventional for the union and the employer to work out arrangements whereby, a stoppage of work does not prevent the preservation of the plant, for example, in a coal mine—and I defer here to Mr. MacDonald—they will keep the pumps and other equipment operating. In some others they will see that the fire protection is maintained, and that kind of thing.

These things can be worked out by voluntary arrangement. There is no difficulty if there is a will, if there is good faith which is a very important term to us. If there is good faith on both sides these things can be worked out.

Mr. KNOWLES: Mr. Chairman, most of my questions have been picked off, either by Mr. Bell asking them, or by Mr. Andras answering them, but I have two or three more.

First of all, I believe that one of the other arguments advanced by Mr. Heeney, when he appeared before us, against putting civil servants under the I.R.D.I. Act, was that it would then be necessary to write compulsory arbitration into the I.R.D.I. Act. This is a premise some of us might question, but it leads me to ask whether you have anything further to say on the extent to which arbitration is provided for in Bill No. C-170, and, in particular, if you have anything further to say on clause 36?

Mr. ANDRAS: I think that the Congress' position on compulsory arbitration has been so extensively stated that it would be sufficient for me to say that we are very, very strongly opposed to it in principle, and have a great doubt about its efficacy in practice. We have disagreed with the Heeney Report on that from the very start.

This legislation provides for options. An employee organization, in order to be certified, must, in advance of certification, exercise a choice and make its choice known. It must decide whether it wishes to go through the conciliation procedure which may lead to strike action, or whether it wishes to submit to arbitration.

In our opinion—and I think we have said so in our brief—we consider this to some extent at least, to be the vindication of the position we originally took against compulsory arbitration, because there is a choice, and the right of strike action is preserved in the legislation.

What we take exception to is the manner in which the rights are entrenched in the legislation. We think that it is unnecessary and, in fact, unwise, to compel a would-be bargaining agent to make a decision in advance of an application for certification. After all, the applicant may not even be certified. Yet it is put to the trouble of deciding what it wants to do.

Secondly, we think it is neither necessary nor desirable that it should be required to do so so far in advance of the possibility of any action, whether it is arbitration or strike action. We think that the choice should be made when the situation arises that requires a choice.

Thirdly, we raise our eyebrows at the fact that once a choice is made it is frozen for three years, and then for an additional 180 days.

Fourthly, there is a strange paradox in the legislation. It is perfectly in order, apparently, for association "X" to come in and make application to the P.S.S.R.B. and say that they have opted for this or the other. That is enough. The board is then seized with the information, and it proceeds. However, if after three years, the association decides that it likes another system of dispute settlement, it apparently has to go through the motions of a referendum, or a convention decision, or some other mandate, and satisfy the board that it has changed its mind. We wonder why a simple assertion is good enough in the first instance, but evidence of a reason for change, or a mandate for change, is required in the second instance.

Therefore, on a variety of grounds, we object to this proposal, on grounds of principle and on grounds of practice.

Mr. KNOWLES: I think it is correct to say that practically all of the employee organizations which have been before us have criticized the necessity of making this choice so early. They have varied about when they think the choice should be made, but I gather that you stay with the position in your original brief, that this choice should not have to be made until there is an actual impasse.

Mr. ANDRAS: It would not be necessary, in our opinion, to have written in a choice in the terms in which it exists in the proposed legislation, because, in any event, an organization is always free, or could be free... in the I.R.D.I.A., for example, the trade unions which are covered by it are always free as to their choice. Nobody compels them to go on strike. It is permissive action; and section 89 of the I.R.D.I. Act, if my memory serves me right, says that the parties may mutually agree to convert the conciliation board into an arbitration board, and in any event it is implicit in the legislation, because there is no prohibition; that the employees do not have to go to conciliation at all under the Act, or to engage in strike action. They can settle their affairs privately. There is nothing to stop them. They are free agents.

Mr. KNOWLES: In other words, instead of amending clause 36 to provide some other time at which the choice is to be made, you would prefer something less rigid, you would prefer no statutory determination of when the choice should be made?

Mr. ANDRAS: That is right.

Mr. KNOWLES: I take it, of course, that you do not accept Mr. Heeney's premise that there has to be statutory provision for compulsory arbitration in this kind of legislation?

Mr. ANDRAS: You use the words "compulsory arbitration". In our brief we have said if that there was an element of choice the compulsion is removed.

Where the compulsion exists is in this respect, that once the bargaining agent has opted for arbitration, then it has, in fact, become compulsory because they cannot change their minds for three and one half years; so that an association which goes in on January 1, 1967, and finds in 1968 that it was not a wise

decision, cannot make a change until probably the second collective agreement; and in that case it is really compulsory; there is no other way out. We disagreed with Mr. Heeney right from the start on this.

Mr. KNOWLES: If I may ask a question in another field, Mr. Chairman, you commented in your brief on some of the requirements for membership in the P.S.S.R.B. This subject has come up with other witnesses before us. I am wondering if you have any other comment on it. I am thinking, in particular, of the requirement that a person who becomes a member of that Board must sever his connections with his economic organizations.

Mr. ANDRAS: When we read the brief after we got our first copies of it we checked the comparable legislation in all eleven jurisdictions and we found that nothing of this sort exists there; that, by and large, the provision is—and I am obviously quoting from memory—that the governor-in-council will appoint the Canada Labour Relations Board, or the Ontario, or whatever board it happens to be, and the legislation provides that it shall have a representative character and that the board will serve at pleasure.

No one requires, as I recall it, for a board member to burn his bridges behind him, as it were, in order to take an appointment. My good friend and colleague to my right, Mr. MacDonald, has been a member of the Canada Labour Relations Board for a number of years, and yet he continues to carry on his office as Secretary-Treasurer of the Canadian Labour Congress. Mr. Archer, President of the Ontario Federation of Labour, has been a member of the Ontario Board for many years—I cannot remember how long—but this has not precluded him from serving his Association.

You can look at any province in Canada and the same is true; but here a man must resign in order to serve and we ask ourselves why? What is there about being a member of the International Woodworkers of America, or the Canadian Brotherhood of Railway Employees, or what have you, that precludes an appointment to the Board? What stigma is there attached to this continuation of membership? When we see it carried forward into the Boards of adjudication, into the boards of conciliation and the boards of arbitration, it seems to me that the felony is being compounded, and we question it on all those grounds, in all those areas.

Mr. KNOWLES: The question is not only with respect to the P.S.S.R.B. but with respect to all these other bodies.

Mr. ANDRAS: Yes. If it had been done exclusively for the P.S.S.R.B. we might have said to ourselves: "Perhaps they have a case". I do not know that we would have subscribed to it, but we would have been less emotion-charged, shall I say—as I seem to sound, I am sure. We still would have tried to make a case against it but we see it going into a board of conciliation, or a board of adjudication. Then we wonder what is the objective of the legislation, and what is the role of the employer organization in having representatives on tribunals.

The whole essence of labour relations legislation in Canada, as I understand it, is that it has a tripartite nature. The Labour Relations Board, the boards of conciliation, the arbitration boards, are typically tripartite. I know that in arbitration we have umpires, but even there that is a voluntary decision. It is not imposed on anybody. But here, as it were, we are told: "Your members cannot serve unless they cease being members." They must sever their attach-

ments with their institution, and we question it very strongly. We just do not understand the rationale for it at all, unless the purpose is to move away from these bodies of the kind that we know—the representative bodies of employers and employees and the public—into what are, in effect, labour courts. If that is what the legislation wants, it might just as well say so. If that is the inference, we would like to know.

Mr. KNOWLES: I have another question, Mr. Chairman, but it is in another field.

I pause in case anybody wants to question Mr. Andras. I cannot question him. I agree with him.

Mr. CHATTERTON: Perhaps I should ask Mr. Heeney this question, but I would like to get your view with regard to what was in the government's mind in their provision that they required the option exercise before certification?

Mr. ANDRAS: I cannot read anyone's mind, not even my officers, but when I was packing my briefcase to come here today I put in the statement made by Mr. Benson as a preliminary statement to this Committee—

Mr. KNOWLES: In other words, you read the Committee members' minds?

Mr. ANDRAS: I would not go that far. He says here: Indeed, to leave this decision—that is the opting decision—to be made at the point where a dispute was declared would require the employer to conduct negotiations without knowing what set of rules would govern a dispute if agreement could not be reached. The result would be a situation in which the bargaining agent would be free to threaten one sanction or another to meet his tactical needs and negotiations.

It is precisely this that we seek. We say, in our brief, that collective bargaining is a form of conflict—a kind that we recognize and sanction in our kind of society.

An hon. MEMBER: A show of strength.

Mr. ANDRAS: That is right.

Mr. CHATTERTON: The argument advanced by the Minister there still does not give the answer to why this opting decision could not be made after certification, does it?

Mr. ANDRAS: Do you mean immediately following certification?

Mr. CHATTERTON: Sometime after certification, or at least following certification, rather than being prior to certification?

Mr. ANDRAS: We object to it on these grounds. We think that collective bargaining, once it has been established, should operate with a good deal of elbow room. The parties should be free to manoeuvre, to engage in bargaining, to make compromises, to make offers and counter-offers, and we are quite well aware from our point of view which, I hope and think, is a relatively sophisticated one, that there is always the element of contest. A Harvard professor, in a book on collective bargaining a good many years ago, said that back of all negotiations is always the potential exercise of force. This is recognized in modern industrial society—I am speaking of free society as in North America, Western Europe, Australasia and so on—and what we are saying is if this is so, then the developments in the collective bargaining process should colour the decision made by one side or the other with regard to the

ultimate method of dispute-settlement. If the parties get along well in their dispute they may iron out all their differences and say to one another, "We have only one or two differences left; let us arbitrate; after all we are good friends." If they hate each other's guts—if you do not mind this crude statement, Mr. Chairman—they will want to put the chips on the table and fight it out. They should be able to decide. If the parties decide well in advance of bargaining, or the possibility of a dispute, that it must be arbitration, or it must be conciliation, then this colours the whole process of collective bargaining itself; and in our view collective bargaining should be a free exercise.

Mr. CHATTERTON: Yes, I understand that; but what is the effect of opting prior to certification, as opposed to opting after certification.

Mr. ANDRAS: Whether it is 24 hours before, or 24 hours after, would not make a bit of difference.

Mr. CHATTERTON: That is what I am trying to get at. It really does not make any difference as far as the position of the employer is concerned, or of the employee, for that matter.

Mr. ANDRAS: From the point of view of the employer, if it is a question of 48 hours or 24 hours, one way or the other, it does not make a bit of difference. Under the act and I think, the timetable will be enacted by New Year's day, and the Governor in Council will begin establishing bargaining units very shortly thereafter—let us say by February 1—a unit is established for some operational group. They look around and they say, "We think we have a chance to be certified." They immediately make application to the P.S.S.R.B. for certification; but before they make application under this legislation they have got to arrive at a decision and make it clear to the P.S.S.R.B. what the option is. The employer is immediately aware of it, and at that point, long in advance of any demands being laid on the table—in advance of the bargaining, in advance of any conclusions—the union, or the bargaining agent has said, in effect "We are going to go to arbitration," or "We are going to hit the bricks."

Mr. CHATTERTON: You think the option taken might influence the question of certification?

Mr. ANDRAS: I would like to think that this would not, in. . .

Mr. CHATTERSON: Is this, perhaps, what is really in the mind of the government?

Mr. ANDRAS: Again I am not a mind reader, but I am willing to give this government enough credit and the P.S.S.R.B. enough integrity to believe that this is not the intent.

Mr. CHATTERTON: If this is not the intent what other effect could there be between opting before certification and opting after certification, before actual negotiation?

Mr. ANDRAS: My feeling is that this and a variety of other proposals in the legislation were established to make the whole process of collective bargaining and labour-management relations more convenient to the particular government which is in power.

Mr. KNOWLES: Is not the argument about opting prior or after a bit unreal?

Mr. ANDRAS: Yes; it is a question of timing. If the "after" were at say, the conclusion of collective bargaining, then it is what exists everywhere. But if it

is a day after certification, or a week after certification, or even a month after certification, before any bargaining is commenced, and knowing that bargaining may last months, then the die is cast in advance of the bargaining. This is really the point we are taking exception to.

Mr. KNOWLES: May I finish, Mr. Chairman.

Senator DENIS: I have just one small question. Does the choice work both ways? If the employers know the choice in advance, so does the employee?

Mr. JODOIN: So what?

Mr. ANDRAS: Yes, I do not follow that.

Mr. JODOIN: The question is that you put your position ahead of time when you do not have to.

Senator DENIS: What is the harm in knowing in advance in what way you are going to settle a dispute?

Mr. JODOIN: Let me put it this way, Mr. Chairman. Suppose it is a case of war. Does a general tell his opponent in advance what he is going to do?

Senator DENIS: But this is not war—

Mr. JODOIN: No, no, it is collective bargaining; but why declare your choice ahead of time—your choice between arbitration and the right to strike? Why? You do not see that anywhere else. I have not anyway. I have never seen it anywhere else before in legislation where the employee's side has to declare its position by a choice between arbitration and the right to strike.

Senator DENIS: It is just the same as anything else, in every law in Canada, or in any province. We know in advance that you are entitled to have such a thing, or you are not entitled to have such a thing, or is against the regulation, or it is against the law to do such a thing. If we decide in advance how we are going to behave in a case like that what is wrong with that?

Mr. ANDRAS: With great respect, sir, the analogy falls down. In law, of course, people are free, or not free, to make use of the law. Here the assumption is that the employees will use the law; but what we object to is the coercion in determining their strategy long in advance and making it known to the employer.

Senator DENIS: Yes; but what is wrong with that?

Mr. KNOWLES: What is right with it, if it comes to that?

Mr. WALKER: May I ask a supplementary? We have been talking so far about the contest between a bargaining agent and an employer, and the reluctance of, if you will, certain bargaining agents to advise in advance what they might or might not do. I want to go back to the other contest behind that, the contest of two or three bargaining units who are trying to win the vote of a general membership to become their bargaining agent.

I have looked at this bill fairly closely and I think I know why it might be in there. Do you not think it is a necessary part of the information needed by the employees, in deciding which of the bargaining agents they will choose, to know ahead of time what the general philosophy of this particular unit is? Is this not the contest we should be talking about? Is this not why that particular clause is in there? The employees may have made up their minds that

employees in the civil service are not quite the same as employees in the industrial world, and if this is their philosophy do they not have the right to know the thinking of the particular bargaining agent and his people?

This is the point that I would like to have clarified.

Mind you, this leads into the other question where the C.L.C. are trying to relate this public service act to their experience in the industrial field. It appears from the briefs that have been presented that many of the civil service associations feel, rightly or wrongly, that the public servant is, in fact, without any loss of liberty or freedom, in a position different from that of an industrial worker.

I have made a speech and I did not mean to. My question is: Should not this information be available to the employees in the first place when they are going to decide which bargaining agent they should choose?

Mr. ANDRAS: It really is, because they all know the mandates of the various organizations in the field right now. The postal workers, for example, know perfectly well, as a result of the last two conventions of the two associations, that they want to exercise the right to conciliation and strike action. They are aware of that. The employees, with regard to other organizations, are in exactly the same position.

Furthermore, if I may say, you have oversimplified the problem. You have suggested a rather broad area of choice, which is not quite there—certainly not the way the legislation is now written—because the governor in council is going to establish, if this thing goes through as is, the bargaining units for the first two years.

If I understand the process correctly, the element of choice is rather remote. There is going to be a bargaining unit and it will consist of employees who fall into a certain category or group of classifications. I rather suspect that in most cases it will not be a single organization but a conglomeration of associations which will be compelled—and this is another issue of compulsion which we find objectionable—virtually to form councils of organizations whether they like it or not. You talk of choices. If a man is a postal worker, or a customs and excise officer, or something else—I happen to pick these because they are fresh in my mind at the moment—he is not likely to move into an organization which consists of stenographers, or scientists, or firefighters. So that in a certain sense the proposal you put forward is not four square with the realities of civil service structure.

The Joint CHAIRMAN (Mr. Richard): Mr. Knowles, I am trying to get Mr. Orange on pretty soon, unless you have a related question.

Mr. KNOWLES: I am in your hands, Mr. Chairman. When I was questioning I said at that point I had another question but I was prepared to let others ask supplementaries to the ones I had asked. I would like to ask my third question at some time. It does not matter when.

Mr. ORANGE: Well, after you Alphonse!

Mr. Walker asked one of the questions I had intended to bring up. As a matter he asked a second one to which we did not get an answer, and that is with respect to the associations which have appeared before us.

They seem to take the basic premise, as part of their philosophy, that there is a difference between the person working in the public service and the person working in the industrial field. Mr. Andras made reference to a phrase, "the

trade unions of civil servants". I have noted with interest that the large group who have appeared before us and who represent the bulk of the civil servants, call themselves an alliance. I would like to hear the opinion of either Mr. Andras or Mr. Jodoin on whether or not they believe (a) that there is a basic difference between the so-called "white collar worker" and the "blue-collar worker" and (b) whether there is a difference between a person working in the public service and a person working in the industrial field, as they relate to collective bargaining and other matters of this nature?

Mr. ANDRAS: I would say in reply that the civil servants themselves, through their proposed Public Service Alliance, do not distinguish between the white-collar and the blue-collar worker, because they are going to enlist them both under the same organization.

Mr. JODOIN: Within the terms of the alliance.

Mr. ANDRAS: Yes. I might add that the last time we appeared on October 6, one of the members of the committee asked for a list of organizations affiliated with us in the public service. It happens that there are 21 of them, and a 22nd with an application pending. The majority of them are trade unions and we have at least two or three which have deliberately taken the trouble to change their names, those consisting exclusively of civil servants, which now call themselves unions of such and such. Even if they had not done that, because you do not have to use the word "union" to be a union—after all we have a Canadian Newspaper Guild, an American Newspaper Guild, we have a Canadian Merchants Service Guild, we have an International Association of Machinists and so on—it is not the word that counts.

An Hon. MEMBER: What is the difference between a congress and an alliance?

Mr. ANDRAS: It is the nature of the organization and how it operates and the kind of esprit de corps it has and what are its objectives.

As I say, regardless of their names, or what they call themselves, I think that anybody who has observed civil service organizations over the last ten years will have seen a significant change taking place in their outlook.

You might argue, sir, that there are differences between a civil servant and, say, a machinist in private industry. Yes, one works for the Crown and there is that distinction; the other works for a private employer. But the fact of the matter is this that we have at least two provinces that do not make that distinction. Saskatchewan places them right into the Trade Union Act. In Quebec they fall, for purposes of administrative convenience, I suspect, into two acts, the Labour Code and the Civil Service Act; but they are, nonetheless, treated like other people. Municipal employees have always, as far as I can recall, and certainly in my own time as a trade union official, been treated precisely as other employees.

I think this is a rather mechanical distinction, in very large measure. They work under a contract of service; they work for pay; they are subject to discipline and direction; they have the same labour management problems of discipline, of discrimination, of exploitation if you wish, because after all I saw one of the members walk in here with the Montpetit Report. If anything ever established that they have the same kind of problems it seems to me that this report did.

I do not think there are substantive difference sufficient to segregate civil servants from the rest of the labour force.

Mr. ORANGE: You made reference earlier to Bill C-181 as being a matter of major concern. There are certain aspects of that bill which I think, concern a lot of people, but one area on which I would like to hear your opinion is just how far should the employee organizations be involved in determining such matters as promotion, those areas which are now part of Bill C-181 and not part of the employees' right to negotiate?

Mr. ANDRAS: As I recall Bill C-181, I think sections 22 to 30 give the commission, or propose to give to the commission, powers over promotion, demotion, transfer, layoff, rehire, to determine incompetence and to exercise disciplinary measures. Apart from the question of appointment which, in many cases but not always, lies exclusively with the employer, because we have closed shop agreements—apart from that, and this we have conceded in our brief, should properly remain with the commission because the whole issue of merit revolves on that—beyond that there is not an area that is referred to in those sections where we do not bargain, and is strikes us as extraordinary and we say so in our brief—that a departmental division should be shut down for example, and the commission should be free to lay off, arbitrarily if it so chooses, without any regard at all for service; and it is quite conceivable that a man who has spent 25 years working for the government will be laid off while a junior with two years of service will be retained. There is no protection against this, as we see it.

Mr. ORANGE: Would you suggest that there are two alternatives? One is for the bill, or for the government, through regulation, to protect this particular group of people. I think there is another reference here to a man who is promoted from grade three to grade four in some particular category; as a grade three he might have given some 15 years of very satisfactory service; he moves up one step on the ladder, he is in there three months and the person he is working for says: "You are of no more value to me. You are not competent as a four", and therefore he is subject to being released. This, I think, is an area of concern. Would you see the federal government protecting, through legislation or regulation, people such as I have just described or would you see this just as a matter of negotiation?

Mr. ANDRAS: We think it is a matter of negotiation. We do not want it through regulation; we want it written in the collective agreement and open to the use of the grievance procedure and what is called adjudication in the proposed legislation.

Mr. ORANGE: I have another question, Mr. Chairman.

In your brief, you take a rather different approach to the Pay Research Bureau from what we have heard both from the staff side and also from the official side. You have suggested that the Pay Research Bureau open its records, to make the information public about where they obtain their data.

Mr. ANDRAS: I would like, if I may, sir, correct the impression you have. We are not suggesting that the employers from whom the data are derived should be identified. What we were suggesting is that if the Pay Research Bureau compiles a study of wages, say, in the metal fabrication industry for purposes of comparability that that should not be a confidential document.

Mr. ORANGE: You said it should be subject to public scrutiny.

Mr. ANDRAS: Yes, quite; because in our experience it has not been.

Mr. ORANGE: Do you not think that this would cause some friction with the agencies, or the employers, providing this information?

Mr. ANDRAS: No, because they do it now, anyhow. The Department of Labour is constantly compiling wage data obtained from employers, and the employers are never identified. If the employers are simply called No. 1, 2, 3, 4, 5 and so on, you are not identifying them. If you have only one employer in an industry, I do not care what you do, he is going to stick out like a sore thumb; but where you have 50 or 100, or even a dozen, or two dozen, then they are anonymous. We are not asking to pinpoint each employer *per se* by name.

Mr. ORANGE: What you are suggesting is that this information be available to both parties. You do not mean public scrutiny, as in the case of the auditor general's report?

Mr. ANDRAS: If it becomes available to both parties, in my opinion it is a public document. What has happened in the past in so far as we are aware was something along these lines: The P.R.B. would engage in a service, and they would compile very elaborate statistical data. They would be made available to, of course, the commission and, I presume, to the treasury board. Individual copies would be made available, on a confidential basis, to the heads of the staff associations who were sworn to secrecy with regard to their use. Therefore, no matter what critical views they had about the criteria used by the bureau—the feeling and conclusions of the bureau, the statistical arrangements of the material—they were completely inhibited from making use of it. Yet this involved the very economic lives of their members.

We would convert the pay research bureau from a quasi-secret type of organization into one whose data are available to the two parties who are involved in the collective bargaining process. Either you abolish the P.R.B. and let each side derive its data from wherever it wishes and cease this fiction that there is this impartial and objective body—I am sorry; it is not a fiction; they are impartial, and they are objective; and I have the very highest regard for the people who are there—but certainly do not treat it as though it were an atom bomb, or the formula for making bombs. If the P.R.B. is going to play a role in collective bargaining then let its material be laid on the bargaining table. That is what we mean by public. So that there will be no inhibitions about making use of it, or criticizing it, or evaluating the criteria on which the statistics are based. This is what we want. If there is going to be bargaining in good faith let it be based on information which is freely available to both sides.

Mr. KNOWLES: Before I ask the other question I wanted to ask may I make a comment which was started by what Mr. Orange said. I think his position is not very far from the position taken by the Civil Service Federation so long as the anonymity of the employers is protected.

Mr. ORANGE: Yes; this is the point. This is where there is a divergence of opinion between the two organizations.

Mr. KNOWLES: Mr. Chairman, the other question I would like to put to the congress is in fact the same question I put to Mr. Edwards the other day when

he was here: If it appears, and I think it is fair to say that it does so appear, that a very large body of civil servants, as represented by the public service alliance, is generally satisfied with the kind of regime set out in Bill No. C-170, whereas there are large groups such as the postal workers who would prefer a regime such as that in the I.R.D.I. Act, does the congress see anything wrong with our providing what the employees want, even if this means providing two regimes in the field of collective bargaining?

Mr. ANDRAS: I think intrinsically there is nothing wrong with this. You have groups,—and since you used the postal workers as an example,—they make a very good case in point for the argument that they could be separated, because it is a homogeneous group performing a unique service, working for a department unlike other departments, and it would not, I think, upset the processes of collective bargaining and decision-making if the postal unions—I am using the word “unions” deliberately because I know that is what they would want me to say—if the postal unions were placed under the I.R.D.I. Act. I think it is quite a feasible procedure, yes.

Mr. BELL (*Carleton*): To pursue this point: In your brief—I think at page 29—you do suggest that, rather than putting them under the I.R.D.I. Act, they might become separate employers under part 2 of schedule A.

Mr. ANDRAS: That is a possibility.

Mr. BELL (*Carleton*): I wonder whether you feel that that is sufficient? Do you apply this both to the post office and to the printing bureau? I have not yet been able to see that sufficiently advantageous consequences result from the shift from part 1 to part 2. Perhaps you could tell me how you would visualize it would work out in part 2—to be advantageous.

Mr. ANDRAS: From a collective bargaining point of view it would be an advantage both to the employer and to the unions concerned if they were treated as separate employers under part 2 of the schedule, because you have a very homogeneous group, sir. As my friend, Eugene Forsey, would say. “They are sui generis.” They are unique animals, as it were. They have particular procedures.

In one case you have a postal service and in another case you have a printing operation. They have their own rules, their own customs; their employers have a particular kind of relationship with the employees, because they are engaged in a commercial, or a quasi-commercial, or a kind of service operation; and bargaining would be very much facilitated if the parties sitting across the table from one another were the employer of the Queen’s Printer or the employer representing the postal operations—the Postmaster General or his deputy or what have you. In that respect I think you would get a more efficient operation from the point of view of collective bargaining.

Mr. KNOWLES: Even if this would be an improvement would it not still be the case, if the postal workers were put there that they would have to bargain with that separate employer under the terms of Bill No. C-170.

Mr. ANDRAS: Oh, there is no doubt about that.

Mr. KNOWLES: Well, according to the people who have been before us that might tend to satisfy the workers at the printing bureau, but I do not get the impression that that would satisfy the postal workers.

Mr. ANDRAS: No, I do not think it would. As a matter of fact I cannot read the minds of printers either, but, I do not think they would break into tears if they were put under the I.R.D.I. Act. They are accustomed to working under labour relations legislation, and they would be much more at home under it than they are under this bill.

(Translation)

Mr. LACHANCE: Mr. Jodoin, one of the remarks made before the committee here refers to the setting up of national negotiation units. You are no doubt aware that the president of the Confédération des Syndicats nationaux—I see that you are laughing—offered some criticism of Bill C-170 over the week-end. I suppose you have made yourself aware, if not of the actual remarks themselves, at least of the newspaper reports on the matter. Now, I would like to have your opinion on this matter of the setting up of these national negotiating units when he says that the government, with the adoption of Bill C-170, is attempting to impose “union uniformity on public servants.” That is my first question.

Mr. JODOIN: That is a majority matter in the democratic system. We have suggested that once the units have been chosen, the workers themselves would take their decisions. That is what Mr. Andras answered specifically. He answered all the questions which were put in that connection in your presence.

Mr. LACHANCE: But do you feel that the government is imposing union uniformity over public servants?

Mr. JODOIN: The government is imposing nothing. It will be the workers who will decide. But what we deplore—and deplore very much—is the unilateral choice as far as the units are concerned. For one thing, it is the Commission, in the first place, that will be called upon to decide. Then, the government reserves to itself the right of final decision. What happens then? Well, the final decision is left to the employer. But what I would prefer is that, at least an opportunity would be provided for discussion with the Commission itself. This should not be done unilaterally, only with the employer, with due respect to the government as employer. However, there are various ways of doing it. The Commission is not representative and we are not asking associations to be. This is not something like the Labour Relations Board. Employees are not represented there. Let us assume that for anybody to sit on that, he would have to resign from all other unions.

Mr. LACHANCE: But we are dealing here with the choice of units, are we not? That is what I would like to know. Does it put a straitjacket, so to speak, on the public servant?

Mr. JODOIN: Nationally? Certainly. Regional units in cases like that—I would not like to be the government. Yes, the point is to recognize these as national bargaining units.

Mr. LACHANCE: Therefore it does impose union uniformity?

Mr. JODOIN: In the sense in which I have just spoken. I am convinced that in the province of Quebec, for instance, the civil servants there would like to be recognized provincially. There should be, for instance, as much uniformity as possible as long as we deal with Canadians who work throughout Canada.

Mr. LACHANCE: But Mr. Pepin's union, like yours, represents a rather widely based organization, not perhaps as wide as yours, but let us assume that he represents a very widely based union. He says, therefore, that this imposes uniformity. You do not share that view, as far as the setting up of national bargaining units is concerned?

Mr. JODOIN: Let us take the example of the post office employees. I think certainly this should be dealt with nationally. This association will represent the majority of the employees for whom it will have a right to negotiate. The only difference between us and national syndicates is that we say "if you think so, you try to get all members in these negotiating units throughout the country." That is our point.

Mr. LACHANCE: Therefore you are in favour of national bargaining units in the Public Service?

Mr. JODOIN: Yes, and let the best man win.

Mr. LACHANCE: And this is a very interesting matter. I would like to know your explanations on that. He adds that it would be the negation of freedom of choice on behalf of the workers. He was dealing with Quebeckers, of course, but—

Mr. JODOIN: But that is not new, the right of association is not new. The right of association is recognized nationally. The point is to get the majority on a national basis.

Mr. LACHANCE: And they are not recognized provincially.

Mr. JODOIN: Why should they be recognized only provincially? A country is a country. I am from Quebec, of course, but I am a Canadian too. What we say is that in cases like that, the negotiating unit as such—and I will return to the post office employees—I think no negotiating unit should be anything but nationally based. And if any other independent organization such as the N.C.T.U. wants to represent employees, let them be nationally based.

Mr. LACHANCE: This is my third question. He says this would be an American-style union organization. What is that, according to you?

Mr. JODOIN: I really do not know what Mr. Pepin means when he speaks of an American-style union. The workers who belong to our Congress are Canadian workers. There is nothing new about that. Our Congress has people who are members of Canadian locals. The same thing is true of our federations. The same thing is true of our local unions and our councils. This is a myth. Because of the nature of our international unions, an attempt is being made to imply that we are dominated from the United States. This is not a fact. Our Congress is not in that position at all. There is a great deal of propaganda about. There is an attempt to convince certain government authorities that there is American domination, whereas such is not the case.

(English)

Mr. CHATTERTON: Mr. Chairman, I am concerned with section 39, clause (2) (c), whereby the board may not certify a bargaining agent if that agent requires a condition of membership therein, that the payment of any of its members of any moneys for activities carried by or on behalf of a political

party. Now, the Letter Carriers Union and the Postal Union are affiliated with the C.L.C., are they not?

Mr. JODOIN: Yes.

Mr. CHATTERTON: Do some of your unions have it in their constitution that of the dues paid part goes to a political party? I was wondering whether the effect of this clause could be that if, for instance, the Postal Unions were affiliated with such a union, they may not be certified by the board, or are there no such unions?

Mr. ANDRAS: Our unions do not operate that way, sir. Their constitutions do not have such clauses embedded in them.

Mr. CHATTERTON: I see. Thank you.

Mr. HYMMEN: Mr. Chairman, I have two questions, both of which are related to matters which have already been discussed. I am at a slight disadvantage because I was not able to be here for the first hour of this committee's sitting.

The first question is in regard to something that Mr. Jodoin mentioned about bargaining being a contest of strength which is, I believe, on page 15 of the brief. Of course, in the bill, there is opportunity for two different ways of proceeding. The objection to the declaration before certification is in this contest of strength, as Mr. Jodoin mentioned.

My question has to do with the public interest and public service. I believe Mr. Forsey, who is research director of the C.L.C. and certainly must speak for the congress, has suggested that even with a government presided over by Mr. Jodoin and another member of this committee who is not here today the railway workers would not be permitted to strike for any length of time. He does not say the length of time.

Many problems arise in the postal operation and, we mentioned last Friday the report by Justice Montpetit. I do not believe it has been referred officially to this committee, but I believe it is on the bookshelves, and some of us had a chance to read it over the week end, but if you presume that the right to strike is given either before certification or immediately after or immediately before enduring problems in negotiations then you assume in the postal service, which I believe to be as essential as the railway service, that eventually someone—the government or management—has to step in to control this in deference to the public interest. While the right to strike is the final action in the contest of strength, is it not a farce in this connection? I cannot refer to *Hansard* but I believe there have been statements made in the House of Commons that the strike is outmoded and should be done away with.

I am asking this question in regard to the public interest, because under the I.R.D.I.A., of course, we have provision for the right to strike in private operation and management and the union can carry on this strike and it does not directly affect the public as much as such an essential service as I believe the postal service to be.

Mr. JODOIN: Very quickly, sir, I can answer you that the right to strike should always be maintained in a democratic country. We are either living in a democratic way or we are not. You know the places in the world today where there is no right to strike; countries with a dictatorship, whether it be the

extreme left or the extreme right. You are well aware of that and I am not here to repeat the history of the whole situation.

These matters can be solved by bona fide, good faith, collective bargaining. If transportation is so essential for Canada, and I believe it is, I do not see why they should be penalized by having poorer working conditions than any other group because of their responsibilities. And they are being penalized. This is also true in the field of general public utilities, if you want to bring that in. Certainly by making comparisons in industry, and so forth, there should be a way in good faith collective bargaining for these employees to be compensated accordingly. This is especially true with competent governmental authority and, of course, this is conceded in the case of Bill No. C-170. That is the way I see the matter can be solved.

To make myself very clear on behalf of the Congress, I say the right to strike should be maintained.

Mr. HYMMEN: Just another question, sir. You do not agree that there is a better way to solve these matters than by a strike?

Mr. JODOIN: I did not say that. As a matter of fact, if you look at the record—and these are not our statistics, they are those of the Department of Labour of Canada—you will see that those who have to go on strike by comparison in numbers are very small. It is news, as a matter of fact. It is negotiated to collective bargaining.

When we have a strike we settle collective bargaining contracts with certain corporations peacefully, let us put it that way. You have to find this news near the obituaries in the newspapers because it is not news, but when there is a conflict of some sort, well, that is supposed to be news and 200 people on strike will get front page or third page coverage. That is a fact. You check back, do not take my word for it. It is easy for your committee to get the statistics from the Department of Labour, which covers all of Canada, and you can get information from provincial governments, etc. That is my answer to you on this one, sir. The right should be maintained just the same.

Mr. HYMMEN: All right. My second question had to do with the Montpetit report which I mentioned. You speak on page 12 about the merit principle which has been used in the civil service. At the same time it would appear you feel that everything with the exception of appointments—and this has been discussed before—should be discussed across the bargaining table. I feel that promotions and transfers are definitely related to this matter, which under the bill are supposed to be arranged under the commission. Now, my question is this—referring to the report which I mentioned—I understand one of the important things at the bargaining table is seniority with equivalent qualifications but in the Montpetit report, because of certain peculiarities, certain in-grown operations in the postal department, the report suggests that it might be advisable to bring some employees from outside the civil service in order to inject some new thinking into the operation. This may or may not apply to the employees who would be considered under this bill. It may be more in an administrative capacity, but this would be entirely opposed to seniority, which seems to be generally a prime consideration in bargaining methods.

Mr. JODOIN: The report of Mr. Justice Montpetit has just been tabled. I have not had the opportunity of reading it. I have it on my desk. I assure you

that will be good work for the week end, as you indicated a little while ago. I have seen some newspaper headlines about the "little tyrants", and so forth. We will scrutinize that very closely. We will have to study this report as it is. Initially I am not in favour of getting outsiders all the time. As we do in collective bargaining, I would like both parties to get together without a third party. I think, with all due respect, with those who sometimes act presumably impartially that generally speaking these matters can be settled by both parties. However, before making any commitments on this or making any statement I would have to take a look at the report itself, which I notice is quite voluminous.

Mr. BELL (Carleton): Just one question in relation to the Freedman report. I think there have been some suggestions that perhaps there is not sufficient flexibility in this bill to permit those tremendously important factors that are set forth in the Freedman report to be properly the subject of negotiations. Do you have any comment and what would you suggest should be done in relation to it?

Mr. JODOIN: Implementation of the Freedman report.

Mr. BELL (Carleton): Generally.

Mr. JODOIN: Generally.

Mr. BELL (Carleton): In relation to this bill what would you suggest?

Mr. JODOIN: I think you will have the same problems to a certain extent—and correct me if I am wrong—but it is a fact that you will have automation too, and many other things that might appear in the civil service itself.

We always look at the human side of these questions. We always think of the human being first and then any improved machinery because you still have to have the consumers. You have to have people who will buy postage stamps, for instance, and things of that kind. I think on the basis of the summation of the honourable Mr. Justice Freedman and the comments generally speaking, this matter should be negotiable with the employee.

Mr. BELL (Carleton): And specific provision to that effect should be made in this bill.

Mr. Jodoin: I would think so.

(Translation)

Mr. LACHANCE: Mr. Jodoin, you said a while ago that the right to strike must be maintained, and I share your view on the matter. Do you believe, however, that there is a large percentage of employees who are not in favour of the right to strike in the public service?

Mr. JODOIN: That would have to be determined. I spoke of the maintenance of the right to strike. However, I did not mean that because we have that right, we have to go on strike.

Mr. LACHANCE: Quite so.

Mr. JODOIN: This, therefore, would have to be determined democratically through the usual votes and so on. That is why we objected so much this

morning, that we were objecting very violently to stating opposition beforehand.

Mr. LACHANCE: But this is a very serious matter.

Mr. JODOIN: I agree.

Mr. LACHANCE: I know that. Do you think that there are a large number of people who are not in favour of the right to strike in advance? I speak here of employees of the public service.

Mr. JODOIN: You mean union members even in the public service? No, I do not think so. The point is whether we want to use the right to strike or not. I think generally speaking among civil servants they are not opposed to the right to strike.

Mr. LACHANCE: In the Public Service?

Mr. JODOIN: Yes, in the Public Service. There might be varying views, of course, on this matter. You know that this is the case in industry. We have minority votes on occasion. Since the opportunity to strike is there, they will decide for themselves whether to use it or not, but I cannot tell you whether in this or that government department some people are for or against. It will depend on circumstances.

Mr. LACHANCE: But do you...there are people against the right to strike. There are people like that everywhere.

I am speaking of the Public Service. Do you think it would be the only way for them to obtain satisfaction?

Mr. JODOIN: Tactically speaking, there should be freedom under this Act as it exists under the Industrial Disputes and Investigations Act nationally.

Mr. LACHANCE: We deal with the public like you do, and we know that some people are not in favour of strikes, for one reason or another perhaps because they do not understand the problem.

Mr. JODOIN: If you say there are exceptions I can see that.

Mr. LACHANCE: But this is more than an exception. If we take the percentage of the people who voted for the rail strike for instance as compared to the number of employees, there was not such a considerable difference. This is an example, of course.

Mr. JODOIN: That is not a very good example from your point of view because I think the transport workers generally were in favour of a strike at that time.

Mr. LACHANCE: But it is not a majority of the people that actually voted.

Mr. JODOIN: It depends on what is the organization. They were our friends in various associations and the percentage was very considerable, you know that.

Mr. LACHANCE: Still there are a large number of people who are not in favour of a strike.

Mr. JODOIN: Still they were in the minority.

Mr. LACHANCE: Ought they not choose an organization which would decide it did not want the right to strike?

Mr. JODOIN: The point is now to find out through you, Mr. Chairman, if you are in favour of a majority rule or of a minority rule. If there is a rule of the majority of people who say we do not want any strike, well that matter will be settled. It will be settled one way or the other. You cannot be saying to a minority party that they can go against a majority decision. We are not in favour of that type of operation.

Mr. LACHANCE: But you will agree with me that in the public service it is not exactly like in industry, is it? The public service is, in fact, the government and the interests of the citizens are at issue. The government is an employer.

Mr. JODOIN: However, from the point of view of working conditions and social benefits, there is no difference at all between any government and its employees.

Mr. LACHANCE: But there are other means of pressure which do not exist elsewhere in the private sector.

Mr. JODOIN: They are not always good, are they?

Mr. LACHANCE: I agree, but there are people who are against strikes for all kinds of reasons, possibly because they are afraid of losing salaries.

Mr. JODOIN: On that point I would like to tell you that if you had mentioned the word strike in the public service a few years ago, a large number of people would have been opposed to it. I agree, but as Mr. Andras, my distinguished colleague said a while ago, there has been a great deal of change since then. Public service would like now to be on the same footing as other employees in the country generally. A few years ago, if you had spoken of a strike in the public service it would have been quite inconceivable, but things have changed. I believe that with regard to the right to strike public servants are in favour of it. By a large majority.

Mr. LACHANCE: They want the right to strike, but will they want to use it?

Mr. JODOIN: We will find out about that; that will depend on circumstances. In some cases disputes are easily settled, in other cases, negotiations can go on for a long time and the difficulties are not easily resolved. It depends on circumstances, but according to the information we have, what was taboo before is now readily recognized by public servants.

Senator DENIS: Mr. Jodouin, you have been speaking of democracy, that is all very well, but when you use the word democracy you maintain that the right to strike should exist and that if the right to strike exists it really involves possible use of the right to strike, whatever the nature of the public service involved. What you say is that any group of public servants could go on strike for a day, a month, or a year.

Mr. JODOIN: According to the negotiating units involved.

Senator DENIS: In other words, if the employees are not satisfied with the conditions offered, you are in favour of postmen going on strike for a month even if the economy of the country suffers a very heavy blow. I would like you to answer that question. Is the answer yes?

Mr. JODOIN: No, I think the negotiations should be carried out in good faith. If the services are essential they should be remunerated in consequence and have corresponding social benefits.

Senator DENIS: That is why we are here together. We are looking for the possibility of solving a difficulty between the government and its employees. You maintain that the right to strike should continue to exist in essential services such as in police services or firefighting services. You maintain that there should be a right to strike, and if the city catches fire there will not be any firemen to put out the fire, is that your opinion?

Mr. JODOIN: You should not exaggerate.

Senator DENIS: But when we speak of democracy we should not exaggerate either.

Mr. JODOIN: Your example of the firefighters is not too good, because in their own constitution they have submitted themselves voluntarily to arbitration not to legislative action.

Senator DENIS: The reason we are here is to look for some means of agreement between the government and its employees.

Mr. JODOIN: But I think the right should exist.

Senator DENIS: I am not the witness, you are.

Mr. JODOIN: I am sorry.

Senator DENIS: In an essential service such as the Post Office Department or even in the railways, if the employees there decide to go on strike because they are not satisfied with the settlement offered, you feel then that the people should be on strike as long as they require until they obtain satisfaction in a situation where the economy of the country might be endangered. I am, just as you are, favourable to democracy, but is democracy really the word here? Should we go to the opposite extreme, should we risk endangering the economy of this country? Democracy would then become anarchy. You know that the country cannot do without its mail carriers, you know that the country cannot do without its railway workers. We are looking here for grounds for agreement between the government and its employees, and we should too think of protecting essential services. If employees decide to proceed in one way so that there can be no strike, that we go through conciliation or compulsory arbitration, what is wrong with that? Is there anything wrong with the employees acting in such a way as to protect the economy in the interests of the country?

Mr. JODOIN: In all due deference you will never make me say that the right to strike should be eliminated and that compulsory arbitration should be set up. I said a while ago that there is one way of solving the difficulty, that is by providing proper working conditions and proper marginal benefits. This is as true for railway transport workers as for post office employees. If their responsibility is so considerable, why should the difficulty be so great? But it would be protecting democracy to provide for wretched working conditions as compared to industry, because they are so essential. Is that the answer? I say, no. I say there is a way out of this difficulty, a way out without divesting the

workers of the rights I mentioned a while ago. There should be a proportion between the responsibility of the workers involved and their remuneration.

Senator DENIS: But the Act provides for the choice between the right to strike and compulsory arbitration.

Mr. JODOIN: But as far as we are concerned, we have given our opinion on the matter of compulsory arbitration. We gave our views on that matter, if it is in Bill C-170 it should not be there, and the same is true of the right to strike as such. We object to the fact that we should take up our positions beforehand. This should not be done.

Senator DENIS: But there is some kind of a relationship between a lessor and a lessee; anybody who rents something is bound by the conditions put down by the lessor, by his landlord; this is true for everybody in this country. There is a difference between the Act we are attempting to pass today and the existing situation.

Mr. JODOIN: But you don't have to rent anything from a landlord, do you?

Senator DENIS: But if the landlord does not live up to his obligations, there is a recourse, he can go before the courts. This is true from the point of view of a bankruptcy act, this is true with regard to separation as to bed and board. If you are not satisfied with your husband or wife, you can always obtain separation as to bed and board. What I mean to say is that in advance, the employer and the employee know what their rights are. There is no difference between this type of act and generally existing acts. I think this would be to the advantage of both parties because both know what are the procedures.

Mr. JODOIN: But if they know what procedures are involved, this is all in favour of the employer. Because the government would settle this out of hand.

Senator DENIS: But there has to be an end to everything.

Mr. JODOIN: Yes, but we could be looking for a reasonable end to these things.

Mr. LACHANCE: This is like separation as to bed and board, is it not?

Mr. JODOIN: That is not much of a comparison.

Mr. LACHANCE: Do you say that the government will decide?

Mr. JODOIN: Well the law is the law.

Mr. LACHANCE: In the railway business, it was not the government who took the decision.

Mr. JODOIN: You are right, I am sorry.

Mr. LACHANCE: What I mean to say is that it was not the government, it was Parliament.

Mr. JODOIN: Oh, we are coming back to C-170, are we? Are we still thinking of separation as to bed and board?

Mr. LACHANCE: No, no. What I mean to say is that you should not be saying that the government is all powerful.

Mr. JODOIN: That is not what I meant. What I said is that if decision are not reasonable in view of the employees, they should be allowed to strike.

Mr. LACHANCE: That is not what I said. You said that government has the last word as the employer.

Mr. JODOIN: Yes, I did say that. As far as formation was concerned. The governor in council. That is what I meant.

Mr. LACHANCE: You said that firemen had voluntarily foregone the right to strike.

Mr. JODOIN: Yes.

Mr. LACHANCE: As you know, Mr. Jodoin, it is very important to determine whether people will have the right to strike prior to certification, or after. What you object to is that there should be no choice.

Mr. JODOIN: That is exactly my point. It should be to the employees to decide afterwards.

Mr. LACHANCE: But when a fireman takes up service as a fireman, he has a right to decide that he won't use the right to strike, that he won't have the right to strike.

Mr. JODOIN: My point is that it is not necessary to write this into the Act.

Mr. LACHANCE: Well what about those people who don't want to?

Mr. JODOIN: What I mean is that we should not have to choose in advance, prior to any certification. This should not be in the Act. This prior choice should not be written into the Act, because we don't know the consequences.

Mr. LACHANCE: But afterwards?

Mr. JODOIN: Afterwards? I spoke of democracy, and I think Senator Denis understood me properly. It would be up to the members to decide, but it should not be done legislatively.

Mr. LACHANCE: But would you be in favour of something like that being written into the Act at some time.

Mr. JODOIN: No, it should never be written into the Act at all.

(English)

Mr. KNOWLES: Mr. Chairman, Mr. Andras said he had a list of the unions affiliated with the Canadian Labour Congress who have workers within the public service. Is that the type of list we could be given for the purposes of our record?

Mr. ANDRAS: Oh yes, I came here prepared to table it, Mr. Knowles.

Mr. BELL (Carleton): Could it not appear as part of the record at this point?

Mr. KNOWLES: That would be my suggestion.

The JOINT CHAIRMAN (Mr. Richard): This is a list prepared, I suppose, by the Congress?

Mr. ANDRAS: This is prepared by my department.

The JOINT CHAIRMAN (*Mr. Richard*): From your information?

Mr. ANDRAS: That is right.

The JOINT-CHAIRMAN (*Mr. Richard*): This will be added as an appendix to the proceedings.

Mr. KNOWLES: Does it list numbers of people in the various unions who are working within the federal service?

The JOINT CHAIRMAN (*Mr. Richard*): No, this is only a list of associations or organizations.

Mr. KNOWLES: I am just anxious to see how many times we can multiply that 200,000 we have in the civil service. I think we have it up to half a million now.

Mr. JODOIN: This list would represent about 85,500.

Mr. BELL (*Carleton*): That figure varies a little from what you mentioned last time.

Mr. JODOIN: That is because we are going to have a new affiliation, Mr. Bell. Last time I indicated a round figure of 75,000. Since then we have had an application from the Customs and Excise group of 6,500.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Chatterton.

Mr. CHATTERTON: The question of public employees holding public office will arise. Could we ask the secretary to obtain for us a copy of the existing order in council governing the holding of public office by public employees?

Mr. KNOWLES: Will you invite the economists to keep watching us while we are in committee of the whole, as you have done with the others?

The JOINT CHAIRMAN (*Mr. Richard*): Are we finished with the questioning? I do not think so. Mr. Walker.

Mr. WALKER: I have three questions, if I may. I agree with you, Mr. Jodoin, that the employees certainly have the right to make the choice whether they want to strike or not. Do you agree with me that employees should also have the right to decide not to strike?

Mr. JODOIN: They have.

Mr. WALKER: Do you have confidence in the integrity of the P.S.S.R.B. as being a separate, distinct and independent board from the employer, namely, the government?

Mr. JODOIN: You know, with the word "independent" you always have to watch its composition. Now, I would not know. The principle of the law is that it is supposed to be impartial, but the law is good only as long as it is well administered.

Mr. WALKER: But in your mind you do not co-relate the board with the employer, namely the government, do you?

Mr. JODOIN: As I say, I would like to wait until the composition of the board is announced. I presume there will be a variety of representation, at least

in my estimation there should be. If, with wisdom or lack of wisdom, Parliament should name on that board nine or ten former presidents of corporations, I would have my doubts.

Mr. ORANGE: If I could just ask a supplementary. Is the Congress satisfied with the composition of the Canada Labour Relations Board?

Mr. JODOIN: The Canada Labour Relations Board, yes.

Mr. ORANGE: Well, could this not be applied, hopefully, to the public service board?

Mr. JODOIN: In my estimation that probably could be a solution.

Mr. WALKER: What role do you envisage for the Public Service Commission, the former Civil Service Commission, if the suggestions you made are carried out?

Mr. ANDRAS: I beg your pardon. I read some place that—

Mr. JODOIN: That was already covered by Mr. Andras some time ago, Mr. Walker, when he said that you should always have the right of the procedure of grievance as far as this is concerned. I do not think it should always be unilateral.

Mr. WALKER: I am thinking of the role of the commission, if your suggestions were carried out.

Mr. ANDRAS: We would anticipate that the role of the commission would be, first of all, a recruiting agency. Secondly, it would exercise a managerial function, the perfectly legitimate and normal function of appraising and making decisions, which is a managerial function as we recognize it. What we object to is the absolute right to make the decisions. As we read bill No. C-181, sections 22 to 30, once the commission makes a decision as to promotion or demotion or layoff, or what have you, there is a dead end. The appeal would be going to the very same commission that made the decision in the first place, and this we take exception to. We say if management, and if management is represented in this instance by the commission, makes a decision that Mr. Andras should not have had the promotion, we say we reserve the right to grieve on behalf of Mr. Andras and we want to take it to third party intervention, if necessary, if in our opinion we have a case to make.

We are not trying to emasculate the commission at all from our point of view. We recognize that it has perfectly legitimate and desirable functions. We simply do not want them to be unilateral the way they are as written into Bill No. C-181.

Mr. WALKER: You feel they may be acting for management and you do not give them any—and again I use the word—area of independence.

Mr. ANDRAS: They are an independent commission, I will go along with that, but we simply are not prepared to accept their appraisals as *ex cathedra*.

Mr. WALKER: They may be acting for management, but they may be acting in error.

Mr. ANDRAS: That is right. They are not infallible.

Mr. WALKER: That is the point.

Mr. ANDRAS: This is why we look for grievance procedures.

The JOINT CHAIRMAN (*Mr. Richard*): We had better not get into too much cross fire because some it may be missed in the transcript unless you agree to give yourselves a bit more time between speakers.

Mr. WALKER: I want to get back to one point which Mr. Jodoin stressed so much. In any conciliation procedures or any sitting down at bargaining, this is strictly between two groups, the employer and the employee. This is the point I take issue with. As far as the public service is concerned, where does the national interest in safety or public interest get represented? How can two groups of people, represented by an employer and an employee, take on to themselves a national problem that may be of great public importance. How can they take that into the context of a struggle between two groups of people, an employer and an employee. This to me is the difference between the public service. Who in those negotiations, except for the Public Service Staff Relations Board, can ask and become the voice of that third group who are unheard in this fight?

Mr. JODOIN: I may not have been too clear in my remarks. I meant that this is the preferred way of doing it and this is the way it should be done, as it is done between free enterprise and free trade unions. Instead of getting a third party involved, it should be settled there and then. I indicated in answering a question a little while ago that I feel there are ways to solve these problems or these differences at that level.

When you come to the question of general public interest, that is where Mr. Lachance's parliament comes into the picture again. While representations would be made at that time, I do not think, as I indicated, that the question of compulsion, and things of that kind, solves the problem. That is the only difference of opinion you and I have on this. As far as procedures are concerned we are on the same beam. Have I made myself clear?

Mr. WALKER: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, gentlemen. You will be with us later in the proceedings when we come to the examination of the bill itself section by section.

Mr. JODOIN: If we are notified, sir. I assure you we will be here.

The JOINT CHAIRMAN (*Mr. Richard*): I think you should have someone follow the proceedings from now on because we will be proceeding as soon as possible with the examination of the act itself section by section.

Mr. JODOIN: On behalf of the Congress, I wish to thank you and your colleagues for having received us this morning.

The JOINT CHAIRMAN (*Mr. Richard*): May I have a formal motion ratifying all proceedings?

Mr. KNOWLES: Today's minutes will show 10 or 12 people here.

The JOINT CHAIRMAN (*Mr. Richard*): The next meeting of this Committee will be this evening at 8 o'clock. The Civil Service Commission will be available for examination at that time. Some of the members of the Commission have to leave on Wednesday and they have asked to be called as soon as possible.

Mr. KNOWLES: Subject to what is going on in the House?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

We will then meet at 8 o'clock tonight.

EVENING SITTING

The JOINT CHAIRMAN (*Senator Bourget*): I will now call the meeting to order.

This evening we are calling on the Civil Service Commission. We have already had a brief presented by Mr. Carson some time ago, and I am sure that all the members are acquainted with that brief now and would like to question Mr. Carson.

Mr. BELL: I do not want to always lead off, Mr. Chairman, if Dr. Isabelle would like to go first.

Mr. WALKER: The witnesses who have been here have been questioned on their briefs. There seems to be a general feeling, or the recommendations that have been put forward have been such, that if they were all followed Mr. Carson would be here tonight representing a very minor, small organization.

I was wondering if you have had a chance to follow the questioning that has gone on, Mr. Carson? You have heard many of the objections; that there was delegation of authority in these problems, and some of us have asked the witnesses what role do you see for the Civil Service Commission; and I think I am right that the Canadian Labour Congress this morning suggested that it was just a hiring agency.

Would you again educate me, and perhaps other members of the committee, on the role you see, in the context of this legislation, for the Civil Service Commission, more than just a hiring role?

Mr. CARSON (*Chairman, Civil Service Commission*): Mr. Chairman, I would be happy to try. I am sure my colleague, Miss Addison, needs no introduction to the committee. If I falter, I am sure she will ably support me.

Mr. Chairman, I am well aware of the fact, and my colleagues are as well, that there are those bodies, particularly, I think, trade unions outside of the public service, who would pay lip service to the preservation of the merit principle and say that you can maintain this solely by using the commission at the time of initial appointment and that all it needs to do is to certify that people enter the public service on a meritorious basis without patronage at the point of entry, and that from then on everything else should be left to the collective bargaining process.

Mr. Chairman, I do not think that the parliament of Canada, or the people of Canada, have ever accepted the fact that you could preserve the merit principle throughout the public service merely by controlling it at the point of entry. I think it has been accepted since 1918, and in 1961 when the act was revised, that if you are going to preserve the merit principle you must preserve it at every step of the staffing role.

We hired, I suppose, this last year perhaps 21,000 into the Public Service from the outside, but the number of promotions and transfers that took place were far greater than that. There were staffing actions at every level of the public service, not just at the points of entry.

Admittedly, the key place to start the merit principle is at the point of entry from outside, but I have the feeling that parliamentarians over the years have felt that it was just as important to preserve the civil service free from any kind of extraneous influence throughout the whole career pattern of civil servants; that it was not just enough to ensure the purity and sanctity of the merit principle at the point of entry. This, of course, is up to parliament to decide.

As commissioners we tend to support this view. We are thoroughly familiar with the kinds of pressures that can be exerted—patronage pressures, nepotism pressures and favouritism pressures—throughout the whole career of a public servant. I would think it is highly desirable, if you are going to say that the merit principle is important in the civil service of this country, to enshrine it in legislation throughout the whole career of a civil servant.

Does that answer your question, Mr. Walker?

Mr. WALKER: Yes.

Mr. BELL (*Carleton*): That was a good statement on the merit principle, if I may say so.

Mr. WALKER: I would like to ask one other question if I may: Do you consider the commission to be a thoroughly independent body, independent, if you will, of Members of Parliament? Do you consider that you are the good right arm of a government, or an independent commission set up for the purpose of ensuring the highest possible standards in public service throughout the country?

Mr. CARSON: Mr. Chairman, and through you, Mr. Walker, I think the Civil Service Commission is going to be in an even better position to be an independent agency if you should pass this legislation. Up until now the commission has been saddled with responsibility for pay and classification which are managerial functions really, and to the extent that we have been involved in problems of pay and classification, even if it was just at the recommending level, we have been recommending to government, through the Treasury Board, things which belong within the purview of management. Now to that extent I think we have tried to wear two hats and I think at times it has been difficult for civil servants to see how the commission could be fully independent in the area of preserving the merit principle and at the same time be really an adviser to the government in the area of pay and classification.

With pay and classification moving out of the jurisdiction of the commission into the regime of collective bargaining that is proposed, we will be able to act purely as an independent staffing agency for the sole purpose of preserving the merit principle. I think it will be a purer role for us and a much less confusing role, not only for the commission but for the civil servant and for the government itself to respect; because there is no question there have been areas in which we have had to work very, very closely with departments and with the Treasury Board, particularly in the field of pay and classification, and some years ago, prior to 1961, in the field of organization and establishment. We were deeply involved in the management process.

I think Glassco did a service to the public service of Canada by pointing out that the commission was attempting to be—if you will—a split personality. This bill, as presently before your Committee, puts an end to that split personality

and will enable it to be even more independent; not only independent in heart and action as my colleagues and I think we are, but we will seem to be more independent, and I think this is important.

Mr. WALKER: I have just one last question. Do you feel that the legislation will reduce your responsibility to government—to an employer?

Mr. CARSON: Well—

Mr. WALKER: Perhaps "responsibility" is not the right word. I will say: Your relationship to a government.

Mr. BELL: But the relationship, surely, is with parliament and not with government.

Mr. CARSON: This is what I was trying to say, Mr. Chairman.

Hopefully, under this legislation, our sole sense of responsibility is going to be to parliament. That is what it is now, but at the present time, we do so many things which are really of a managerial nature that, relieved of those, I think we can not only act and think independently, but we can honestly feel that we are reporting solely to parliament on the preservation of the merit principle.

If your question is leading up to the suggestion that this means that the commission will be performing a very insignificant role in the future, I do not think so. I think there is no more important job that can be done for the public of Canada than preserving the calibre of excellence and the quality of merit that has historically been in the Canadian public service.

There are some writers outside who feel that the golden years of the public service in Canada—which reputedly took place some time after World War II, with the advent of so many, many very extremely able people who have brought lustre to the public service of Canada—have become a little fuzzier in recent years. Whether this is true or not, I do not know; but my colleagues and I are embarked on a major campaign to try to upgrade the level of excellence in the public service from the top to the bottom, and, Mr. Chairman, I am glad to report to the Committee that we think we are making some real strides even though we are in the tightest labour market in which the government has ever been.

Mr. WALKER: One last question, if I may: Do you see any conflict developing between yourselves and the employer, through to the Treasury Board, with the whole question of establishment and the growing size of the civil service, or is this out of your field of jurisdiction altogether?

Mr. CARSON: Mr. Chairman, I see that as entirely out of our field of jurisdiction.

At the present time—ever since the 1961 Act relieved us of any further responsibility in the field of establishments—we have tended to fill vacancies when departments advised us that they had an establishment. We did not feel that it was our job to question whether Treasury Board, or the department, were in their right in having an establishment created. That is not our responsibility. We coax; we ask questions; we say, "Now, do you really feel that you want someone to do this job when this department over here has somebody who is purportedly doing exactly the same?" Very often that kind of questioning is helpful, and departments reconsider and say, "Well you know, we did not really realize that we were going to be duplicating." We have provided a kind of

gratuitous service of that kind. But when the chips are down, if the department says, "We have the establishment and we want you to fill it," we go ahead and fill it.

Mr. BELL (*Carleton*): Would you care, Mr. Carson, to identify the occasions on which you have thought that departments and the Treasury Board were out of their minds?

I gather that is something you would rather pass up?

Mr. CARSON: I think so, Mr. Chairman.

Mr. BELL (*Carleton*): One of the problems, Mr. Carson, with which you dealt rather extensively in your brief was the whole question of delegation, and the safeguards that there may be in relation to delegation. I have to confess to you—as I think I have said in the house—that this is the aspect that concerns me most about this bill. You have spoken about systematic spot checks, about periodic statistical analyses and this type of thing, but you have not yet succeeded in convincing me that delegation ought to go to the extent to which this bill contemplates.

I wonder, in the light of my reservations, whether you could express a few further views on this whole question of delegation?

Mr. CARSON: Mr. Chairman, I would be happy to. I will not admit that we are on entirely uncharted seas. We have had some limited experience with delegation; and I would like to assure the Committee that we will not be venturing irresponsibly into an era of delegation unless we are absolutely certain that we do have the safeguards.

Perhaps it would be helpful to you if I quoted a recent conversation I had with my opposite number in the United States, John Macy, chairman of the U.S. Civil Service Commission. The United States, following World War II and the explosion of their public service, recognized that they could no longer cope with the bureaucratic controls the civil service commission in that country maintained over their service. In 1948, therefore they embarked on a deliberate plan of delegation, with audit procedures, and they have worked with this now for twelve or fourteen years. I recently asked Mr. Macy if they were really satisfied that it had worked, that there had not been inroads into the merit principle that they were in no shape to discover? I was very impressed, Mr. Chairman, with his reply because he said, "Look, we were embarrassed after a few years to discover that the departmental managers were really more zealous about preserving merit in their staffing arrangements than the commission had ever been". He said "Certainly we maintain the commission, we maintain our controls—it is all on a delegated basis—and we audit, but we are auditing against only about 5 per cent of the public service, and we know where that 5 per cent is. The great majority is departmental." From their counterpart of our deputy on down they are just as concerned with preserving the merit principle and getting the very best people they can on the job as any civil service commission was. This was very encouraging to me in this day and age. I do not think that either the United States or Canada could have had this much confidence in the concern of departmental management for preserving the merit principle forty or fifty years ago—or perhaps even twenty years ago. I think there have been great strides, and I am confident that the great majority of our deputy ministers, our assistant deputy ministers, director generals, and so on

are just as concerned as we are with making sure that the best appointments, the most meritorious appointments, are made to the public service.

I set out, Mr. Chairman, with this almost as an article of faith. I am convinced that in this day and age competent managers of good intentions are going to be our greatest allies in preserving the merit principle; but I realize that I cannot ask the members of this Committee, or parliament, to take anything on the faith of the Civil Service Commission. We are going to be setting up the most thorough audit procedures, the most thorough examination of recruiting and selection procedures on a spot check basis as we know how.

I would like to mention one other control which I did not mention at our earlier meeting. One of the most effective supports that we hope to have in this respect is the calibre of the directors of personnel who are currently being appointed to various departments of government. We are embarked on a very serious programme, in collaboration with the Treasury Board and the Deputy Ministers, to make sure that each department is constantly staffed by a director of personnel who is reporting to the deputy minister and who recognizes that, although his administrative responsibility is to the deputy minister, he is also there to act as the conscience of that department. I do not like to suggest that he really get into the frame of mind where he feels that he is the presence of the Civil Service Commission and the Treasury Board as well, but, in effect, this will play, I am sure, quite a part in his thinking.

The appointments that we have made in collaboration with deputy ministers to date have been most encouraging, and if we can continue to secure the calibre of director of personnel in each department, that we have started out on this past year, I am confident that they are going to be our greatest allies.

Mr. BELL (*Carleton*): On that point, Mr. Carson, do you have any plan of systematic rotation of the personnel officers from department to department?

Mr. CARSON: Indeed; and we are making it very clear to the whole cadre of personnel officers in the public service, that they no longer belong to department A, or to department B, but that they belong to the total personnel community in the public service.

Mr. BELL (*Carleton*): I have observed, in quite a number of departments, that the same people are there as directors of personnel who were there when I first entered parliament, which is now almost ten years ago. I think it is quite possible that the departments with which I encounter most trouble are the departments where the personnel officers have been there over that long period of time.

Mr. CARSON: Mr. Chairman, I would be less than honest if I did not acknowledge that we have not made the progress in every department that we would like. I think comparisons are odious, and there would be no point in starting to enumerate them, but I think you would be impressed, Mr. Chairman, and particularly you, Mr. Bell, with your very intimate knowledge of the federal scene here within departments, at the quiet changes that we have brought about in a tremendous number of departments. We are nowhere near through, but we have made some really outstanding appointments.

We have done that both by upgrading within the service, by recruiting from other jurisdictions and by recruiting from industry; we do not want to do all of our recruitment from outside, but in a period of rapid change, and with so many demands for a new personnel face, both in the departments and in the

Treasury Board, we had to recruit from outside. We have brought in some really excellent people. I think they are going to give a completely new measure of leadership to the personnel function in departments.

Mr. BELL (*Carleton*): Would you like to indicate, Mr. Carson, what you mean by systematic spot checking of individual cases? How systematic and how spotty will this be over a period of time in the future?

Mr. CARSON: It is difficult for me to be precise. I do not want to worry you by saying that we are going to reduce this to a mechanical kind of operations research, but, in effect, we are going to draw on the experience of the operations researchers and try to get some formula that will indicate to us what are the probabilities of catching errors if we do a spot check on a time basis, or on a departmental basis, or on a percentage of appointments that are made. We will certainly be doing this continuously on a routine and recurring basis, but we also envision sending in auditors, if you will—we may call them by some more euphemistic name but that is really what they will be—to examine the department's procedures at all levels, right out to the farthest office where delegated authority is in practice. We will be checking on the methods of recruitment that they use, the methods of selection that they use, the results of those selection processes, and I am confident that we can develop the kind of skill in this sort of assessment that we can sleep well at night, feeling that we will catch mistakes, errors or outright skulduggery when it occurs; and when we do catch any skulduggery the delegated authority will be withdrawn immediately.

Mr. BELL (*Carleton*): This comes to the heart, perhaps, of this situation. We all know, when we examine the facts of life, that some ministers are more political than others, and some deputy ministers are more political than others. If you get a combination of a political deputy minister and a political minister, you may easily have a very major problem within a department.

I would not be invidious by saying anything about the Department of External Affairs, because I do not think there is such a combination—I think there is only one in that Department—but suppose there is a situation where you delegate the appointment of all the junior External Affairs officers to the Department of External Affairs. How would you, in fact, go about assuring yourself that, with his extensive contacts with all the universities across Canada, a candidate for the leadership of a political party would not be endeavouring, by some technique or other, to recruit people who would enter the External Affairs Department?

I do not want to be political, but if Mr. Carson could—

Mr. CARSON: Mr. Chairman, I wonder if we could avoid referring to any particular department, but let us talk about departments A, B, C, and D.

I am a relative newcomer to the public service, Mr. Chairman, but I am supported by a very large staff. Many of them have spent their whole lives in the staffing function in the public service, and I am constantly impressed with the shrewdness and sagacity that this group of officers have.

We are not naive about the particular ministers in this government, or any other government, or the particular deputies in this government or any other government, and their predilection to be interested in influencing appointments.

I can assure you that we have enough residual knowledge within the commission that we will not be contemplating delegation in those instances where past experience would indicate that it has not a chance of working.

Mr. TARDIF: Could you give us a definition of what a political deputy minister is? You candidly admitted that there were such things, and I was wondering whether you could give us a definition? Mr. Bell, I know, is better qualified, but he is not the Chairman of the Civil Service Commission.

Mr. CARSON: Mr. Chairman, I would like to make a sweeping generalization and say that I think the great majority of deputy ministers in the public service are political, but—

Mr. BELL (*Carleton*): Would you permit me to help you, Mr. Carson, by saying that any deputy minister who reports the senator to me is bound to be political.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

The JOINT CHAIRMAN (*Senator Bourget*): May I ask a question following on what you have said? Does this mean that there will be some departments to which you will not delegate your authority?

Mr. CARSON: Yes. There will be some departments, gentlemen, at various times in history where not only will the Commission not even consider delegation because the risks would be too serious, but there will be situations, I am sure, in which the deputies will say, "For goodness' sake, do not delegate to me. I do not trust myself," or "I do not want to be put in the position of having this kind of responsibility."

Mr. BELL (*Carleton*): Would it be unfair to ask you to illustrate either of the extremes which you mentioned?

Mr. CARSON: Mr. Chairman, these are hypothetical cases but I am sure they will exist.

Mr. KNOWLES: If you can not find any good examples in the present government go back to the last one!

Mr. BELL (*Carleton*): I will pass to some of my colleagues. I want to come back later.

(*Translation*)

Mr. ÉMARD: My questions relate more particularly to the case of manual workers as well as office employees in the lower categories. I would like to know if, at the present time you have a system of evaluating the merits of the employees and if so, what are the attributes, how does it work, at what intervals do you rate the employees, and what can an employee do when he is not satisfied with the rating made of him?

(*English*)

Mr. CARSON: Mr. Chairman, our appraisal techniques, or performance review techniques, at the operational category level are not as well advanced as they are at our administrative, professional, and scientific levels, but we are advancing this all the time.

It is our objective to have a program of performance-review established which will be applicable at all levels of the public service. It will vary, of

course. The yardsticks, the factors which one takes into consideration, will vary enormously from craft to trade to clerical operations to technical operations, but it is our objective to have a plan of performance-review available for departments to use at all levels of the service.

At the present time there is a form of—going back to the old days—the efficiency rating which still takes place in most situations. The use to which departments put it and depend on it in their salary reviews for statutory increase purposes, or for promotions, is a very mixed bag. There is not great consistency throughout the service at the present time. It is our hope and our intent that it will become built into the public service, that a sensible, fair and equitable method of performance review, or performance appraisal, will be available for all ranks and at all levels.

At the present time the performance-reviews at the levels you have been asking about do not play a very major part in any managerial decisions. The statutory increase, for example, under the present Act is granted automatically unless a supervisor can provide justification for withholding it, and the justification for withholding it must be on the grounds that the employee is performing below average—inadequately. The department which intends to withhold an increase must advise the Civil Service Commission and the employee well in advance that they intend to withhold the increase. If they fail to give the employee and the commission the required notice then we wash out the withholding. An employee is also free to appeal against a withholding of an increase by his supervisor on the basis of a performance review.

The JOINT CHAIRMAN (*Senator Bourget*): He appeals to the commission?

Mr. CARSON: He appeals to the commission. This year there were only 25 appeals because of the denial of a statutory increase. I do not have at my fingertips the total number of statutory increases which were withheld across the service, but there were 25 that employees appealed against such denials.

Mr. BELL (*Carleton*): Do you think that is good or bad?

Mr. CARSON: That they appealed, or that there were only 25?

Mr. BELL (*Carleton*): That there were only 25. Is it good or bad?

Mr. CARSON: Well, my suspicion, Mr. Chairman, is that it is bad. I cannot really believe that there were only this few employees who were not measuring up.

Mr. TARDIF: Mr. Chairman, a supplementary question: Who appoints these boards which review these cases?

Mr. CARSON: The appeal boards?

Mr. TARDIF: Yes.

Mr. CARSON: The commission appoints the appeal boards?

Mr. TARDIF: Are some members of the appeal board made up of some of the employees of the department where the appellant is making representations.

Mr. CARSON: This may have happened in by gone days, but certainly in recent history the commission has been scrupulous about appointing one of its own officers to be chairman of the board and only to appoint two other members who have absolutely no interest in the outcome of the case.

In some instances, up until this last year, we used to draw on people from departments other than the one in which the employee worked, but we ran into some criticisms of this, and this year we decided only to appoint members of the commissions own staff, or retired civil servants who had had extensive experience in the appeal process.

Mr. TARDIF: On many occasions members of the civil service have come to see me and I have suggested that they appeal if they are not happy about what has happened to them. They have said that there was not much use appealing, that they did not have very much success because in most cases the boss, for instance, or the chief of the department where they were working, was the main witness, or was a member of the board, and the fact was that he was actually deciding on what was his original ruling. There are many more than 25 members out of 50,000 employees, I can assure you, who are unhappy. There might not be a great percentage of them, but—

Mr. CARSON: But the 25 is related only to statutory increases. There were a lot more than that. There may be 100 appeals every month, or possibly 1,200 every year.

Mr. Chairman, I wonder if I could just comment on Mr. Tardif's question. I am aware of these kinds of uncertainties. The Montpetit report hints at them, and certainly I get them in letters from individual civil servants, because I assure you, gentlemen, that you are not the only ones to whom civil servants write. I keep a fairly busy correspondence myself with unhappy civil servants.

Somehow or other despite our very best efforts we have not done as effective a job of getting into the hearts and minds of every civil servant the protections and safeguards which exist for him. This year we put out a manual—a guide to the civil service appeal system—because I was so frustrated by the misapprehensions and the distortions, and in which we have described exactly what happens—the assurances, the protection which the civil servant has, and the way in which the appeal boards will be conducted, the rights that he has to representation; we laid out the whole process, short of actually filling out the appeal form for him. We have done everything else.

I do not know, Mr. Chairman, whether the members of the Committee would be interested in having copies of this manual. I am sure you must be troubled from time to time by civil servants who have confused ideas about how the appeal process works.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, Mr. Carson—

Mr. BELL (*Carleton*): Mr. Chairman, I am sure all members would like to have this manual distributed. I would like to mention to Mr. Carson that his public relations officers have not, I think, sent copies to any of the local members, to the best of my knowledge.

Mr. CARSON: I think this was an oversight on our part.

The JOINT CHAIRMAN (*Mr. Richard*): Could we go back to Mr. Émard now, please?

(*Translation*)

Mr. ÉMARD: At the present time in the case of a promotion to a higher category in the same employment, does the Commission hold a competition or does it choose the most qualified employee within the group for promotion?

(English)

Mr. CARSON: Mr. Chairman, the practice varies. We have several guideposts written into the act which we look at. There is one guidepost that says that unless it is not in the public interest promotions should be made from within the public service. We feel it is our first responsibility to make sure that people within the public service are considered for positions as they become open, that would mean promotion.

In many of the shortage areas, the highly technical areas, specialized areas, we know from our inventories we do not have adequate resources from within the public service now to be able to fill the particular positions. In those instances, the commission will authorize an open competition, which means it is open to the general public. I want to assure you that our first responsibility is to provide opportunities for promotion from within the public service.

When it is within the public service then we have to sit down and look at what areas should the competition be open to, and this depends, of course, on the level of position. If it is a clerical position or a junior administrative position we tend to say that the competition should be limited to that section, division, branch or unit so that the people within that unit have an opportunity to grow and advance within their unit. On the other hand, if the unit or branch is becoming very inbred or running out of vitality, the department may ask us to advertise it on a broader basis within the whole department or across departmental lines within Ottawa, within Winnipeg or whatever the city is. In some cases, of course, we open it to civil servants right across Canada. I wonder, Mr. Chairman, if that answers the question.

(Translation)

Mr. ÉMARD: Could you give us a general idea of your system of job evaluation. Is it based on points or point systems. I am always referring to the clerical employees and manual employees.

(English)

Mr. CARSON: Mr. Chairman, I would be happy to comment. Because classification, by this act which you are considering, will be taken away from the commission, it really becomes a dying interest on our part. At the present time, as you may have read in the newspapers, we are engaged in a classification revision program in which we are trying to rationalize our whole approach to classification right across the service.

At the clerical levels and in the administrative jobs we are introducing in many instances point rating plans where these seem to be the most appropriate. In some instances we are still using the old grade description plan which it is a pretty rightful approach when beginning to categorize that this job is clearly different from that job and this is historically known inside and outside the service. But where we get into the administrative categories, for example, where there are wide variations of administrative jobs from one department to another department to another department, there we are falling back on point rating plans because it seems to be the only equitable basis on which to compare positions. Mr. Chairman, I am not sure that the committee will be interested in pursuing the classification revision program.

(Translation)

Mr. ÉMARD: In the United States, are civil servants represented by unions affiliated to the Trade Union Movement or are they represented by individual associations which only represent the civil service?

(English)

Mr. CARSON: Mr. Chairman, in a service the size of the United States you get almost the full gamut, but the great majority of them are in associations very comparable to the type of associations we have at the present time in the Public Service of Canada, limited to the public service. But this varies; when President Kennedy brought in his consultation bill a few years ago, they had a very complicated task of sorting out the wide variety of bargaining agents.

Mr. LACHANCE: You mean some are independent associations and some are affiliated with larger unions.

Mr. CARSON: Yes.

(Translation)

Mr. ÉMARD: Do you not believe that here in Canada, if the associations of civil servants were to affiliate to the trade union movement, which is directed by international unions, do you not believe that at one point there might be a conflict of interest between the interests of Canada and of the United States. I think that it has already been stated that Canada is the only country in the world where the labour movement is controlled by another country?

(English)

Mr. BELL (Carleton): I do not think that the witness should be asked to comment on that.

Mr. CARSON: Mr. Chairman, I really do not want to duck any question but my colleague is reminding me that I am a civil service commissioner and I have no business commenting on Bill No. C-170, which has enough very well informed commentators. I think Miss Addison feels that I should restrict my comments to Bill No. C-181.

(Translation)

Mr. ÉMARD: I would have liked to have posed these questions this morning when the C.L.C. was represented but unfortunately I was not in attendance.

The JOINT CHAIRMAN (Senator Bourget): Perhaps you will have another opportunity to do so. Do you have any others?

Mr. ÉMARD: No.

(English)

Mr. KNOWLES: Mr. Chairman, I would like to ask Mr. Carson one or two questions which admittedly are matters of detail and they do relate to Bill No. C-181. I am seeking information. It is one of those cases where I do not know the answer to the question before I ask it.

Mr. BELL (Carleton): That is the first time you have ever been in that predicament!

Mr. KNOWLES: My legal friends have told me that it is a good rule to know the answer before you ask the question.

In the present civil service act there are a number of sections that run along together: 71, ministers' staffs; 72, parliamentary staffs; 73, other public officials; 74, exclusions. Do you see them, Mr. Carson? You will note that clause 37 in Bill No. C-181 covers Ministers staffs and that it is practically the same as the old Section 71, but then there is nothing corresponding to the old Section 72. The next one is clause 38, other public officials and the next is clause 39, exclusions. Now there is one question about clause 38 that I want to ask, but my main question has to do with the section headed in the present act "Parliamentary Staff". Can you tell me Mr. Carson why that has been left out, or is it somewhere else in the act? Would you enlighten me in any way you can?

Mr. CARSON: Mr. Chairman, I am glad this question was raised. The explanation is very simple. Prior to collective bargaining being put forward, while the commission had responsibility for classification, pay, working conditions, and a number of other things, it was felt that the Civil Service Act should be used as the vehicle for getting these people on the payroll and for having some way of making recommendations affecting them. Now with the removal of the commission from the whole area of pay, leave, benefits, and all these other things that are going to be the subject of collective bargaining, it was not appropriate to have any reference to parliamentary staffs or ministerial staffs in our bill. It is not a sleight of hand, I assure you.

Mr. KNOWLES: But the section on ministerial staffs is still in the bill, clause 37.

Mr. CARSON: I beg your pardon, Mr. Knowles?

Mr. KNOWLES: The section on ministerial staffs is now number 37, but it is still in Bill No. C-181.

Mr. CARSON: Forgive me; you are correct with respect to ministerial staffs, but parliamentary staffs were taken out because they are no longer any concern of the commission and it would be improper for us to have even any reference to them. They belong to you in parliament and you will have to make your own arrangements with respect to parliamentary staffs.

Mr. KNOWLES: Does that mean parliamentary staff personnel are covered under collective bargaining or excluded from collective bargaining?

Mr. CARSON: Mr. Chairman, I would presume that this was something parliament will have to decide for itself. Nobody else can tell parliament what they should do about their own staff.

Mr. KNOWLES: But the government usually has a way of giving us a lead as to what things parliament ought to do.

Mr. CARSON: I was sure as an old political historian Mr. Knowles would be the first to be upset if the government attempted to tell parliament what it should do about its staff.

Mr. KNOWLES: I am so used to being upset by this kind of thing that I take it for granted. Then I am correct, though, in noting that it is not in Bill No. C-181 and so far as you know, it is not in any of the other bills that are now before us.

Mr. CARSON: That is correct.

Mr. KNOWLES: You see, Mr. Carson, the by-play between us just now was quite legitimate but may I point out that with respect to the question of

political action or political freedom on the part of civil servants, the government said this is up to parliament to decide. It has been made clear this is to be a free decision amongst those of us that are on the committee. Nevertheless, the government gave us something to work on by putting clauses in the bill. Now, it seems to me—the jab you took at me a moment ago notwithstanding—that the drafters of this bill should have given us some indication of what takes the place of the old Section 72.

Mr. BELL (*Carleton*): Or at least told us there was a vacuum, which there appears to be.

Mr. CARSON: Mr. Chairman, I think this is a very good point. The fact that there is a vacuum should have been pointed out.

Mr. KNOWLES: May I point out, for example, that there is a subclause in the old Section 72, the one that is still in effect, namely, subclause 4, that leaves to employees of the Senate, the House of Commons or the Library the right to work between sessions and get extra salary remuneration. Maybe that has gone by the board because there are no periods between sessions. But there is a right or a privilege or what have you that employees had under that act that now seems to be missing. Mr. Chairman, perhaps Mr. Carson could suggest with whom we discuss this matter. I suppose it would be with Mr. Benson or Dr. Davidson. I will accept that, Mr. Chairman. At least Mr. Carson has confirmed that there is a vacuum in this regard in the new legislation.

Now, looking at the old Section 73, we find it specifies that the Governor in Council may appoint and fix the remuneration of four people, the Clerk of the Privy Council, the Clerk of the Senate, the Clerk of the House of Commons and Secretary to the Governor General. Now, new clause 38 says exactly the same that far but it omits the line that was at the end of Section 73, “who shall be deputy heads for the purposes of this act”. Now in our House of Commons we have known—and our colleagues in the Senate are in the same position—that the Clerk of the House of Commons holds the position of a deputy head, and we understand that the Clerk of the Privy Council holds that position. Can you explain to me, Mr. Carson, why those words have been omitted?

Mr. CARSON: Yes, Mr. Chairman, I can, if you turn to clause 2(1) (e) of the new bill you will see a revised definition of a deputy head, which means:

in relation to a department named in Schedule A to the Financial Administration Act, the deputy minister thereof, and in relation to any division or branch of the Public Service designated under paragraph (d) as a department, such person as the Governor in Council may designate as the deputy head for the purposes of this Act.

It was felt that this provided the one clarifying definition of what a deputy head would be for all purposes.

Mr. KNOWLES: Well, Mr. Chairman—

Mr. BELL (*Carleton*): I will allow you to continue, Mr. Knowles, but I want to take exception to that at once.

Mr. KNOWLES: If I do not, you will. Well, I do take exception to that. It seems to me that these positions if they are to be recognized as those of deputy heads should be so certified in the legislation. I would not like the Governor in Council to be able to decide that the Clerk of the Senate is a deputy head and

the Clerk of the House of Commons is not. Maybe that is *reductio ad absurdum* but to leave this kind of thing to order in council is, I think, questionable.

Mr. CARSON: Mr. Chairman, may I suggest that if there has been an oversight here, and this will be noted, it can be dealt with in the clause by clause study that the committee will be giving to the bill. The Clerk of the Senate and the Clerk of the House of Commons, of course, have no role under the Public Service Employment Act and for this reason this act will be of no interest and no concern and no recognition of it will be required on their part.

Mr. BELL (*Carleton*): Unless we fill the vacuum.

Mr. KNOWLES: We are back to my other question then. Who is the employer in the case of employees of the House of Commons.

Mr. CARSON: Parliament, I understand, Mr. Chairman.

The JOINT CHAIRMAN (*Senator Bourget*): The Speaker, through Parliament.

Mr. KNOWLES: Is it the Speaker or the Internal Economy Commission?

The JOINT CHAIRMAN (*Senator Bourget*): That is the way it works in the Senate.

Mr. KNOWLES: Mr. Chairman, I am prepared to accept Mr. Carson's explanation that this matter is a question for Treasury Board, but certainly I hope that Mr. Benson and Dr. Davidson will take note of this and that we can deal with it because, unless there is a better explanation, it seems to me this is a pretty serious vacuum. I quite agree with the idea that parliament should engage its own employees but I do not want that to be either under the merit system or under collective bargaining. The possibilities in that respect are ominous. It is neither of those. But I will hold that question until we have Mr. Benson or Dr. Davidson before us on behalf of the Treasury Board. I am glad to note that Mr. Carson agrees that if there is an omission at the end of clause 38 the commission will study this and give us some advice when we get to the clause by clause study of the bill.

Mr. CARSON: Indeed, Mr. Chairman.

The JOINT CHAIRMAN (*Senator Bourget*): Do you have any other questions, Mr. Knowles?

Mr. TARDIF: You said a while ago that when this bill is passed some of your present functions would of necessity have diminishing interest. But, I presume, the advertising and holding of competitions for jobs will still be of live interest to the commission. On many occasions people come to Members of Parliament—they have come to me—and state that they made an application and entered a competition for a position only to find the position had already been filled, or the selection for filling that position had already been made. In some cases into which I have checked, I have found that the competition was held after the job was filled by somebody within the department concerned, I do not know how frequent this is but we do hear about this frequently.

Mr. CARSON: Mr. Chairman, I would hope that there was always a legitimate explanation but I would like to extend a very sincere invitation to the members to draw this kind of situation to my attention or to that of my colleagues because if we are going to preserve a merit principle, people in

Canada have to believe in it. The suggestion that competitions are held that area a charade or a camouflage or window dressing disturbs me very, very greatly.

I realized that it was alive in Canada. Before I joined the public service, I was aware of this kind of rumour and innuendo that one picks up from time to time, that we run competitions for masquerade purposes to try and fool someone when really we already have the person picked out. I even heard the suggestion that we write the advertisement around the particular individual.

Mr. TARDIF: That is a regular suggestion. Do you not do that?

Mr. CARSON: Mr. Chairman, we do not. If there were a stack of Bibles, Mr. Chairman, I would be quite happy to take an oath to this effect.

Mr. TARDIF: This is not directed to you personally but there must be many people under you in the Civil Service Commission.

Mr. CARSON: I agree and this, Mr. Chairman, is why I sent out a very sincere invitation to you to draw these kinds of cases to our attention. Sometimes it does happens that a department is faced with an emergency and has to fill a job with someone on an acting basis, even though there is a competition underway. We had a recent case of this in which the department moved an individual from one city to another city because there was an urgent situation in a hospital and they had to have staff. In this case an employee appealed because he felt this was unfair and improper and the department had moved in advance of the competition and was prejudging the outcome of the competition. I have taken the position that the department will have to be prepared to move that individual back at the department's expense if they tried to prejudge the competition and to influence the rating board on the grounds that this individual was already there, that he was doing a good job, and let us not upset it. We do not stand for that kind of thing, Mr. Chairman. If there are distortions of the merit principle, if there are distortions of the ranking of people by rating boards because somebody has been sneaked in the back door to cover off, I would like to know about these.

Mr. TARDIF: Mr. Carson, as a follow up to that, do you feel that there is a fear among some members of the civil service that if they appeal to the commission on a decision that has been made, when they get back to their department it will be the end of their career, to all intents and purposes? In some cases, while the persecution may not be direct, some of them end up by having nervous breakdowns. I know of several cases about which I would be very happy to let you know about.

Mr. CARSON: Mr. Chairman, human nature being what it is, I suppose this kind of fear can be in people's minds. We make it very clear in our guide to departments and employees, with respect to appeals, that there must be no suggestion of recrimination against not only an individual who appeals but against an employee who appears as a witness for the employee who is appealing because in many cases employees feel that they want to ask fellow workers or previous supervisors to appear on their behalf.

I would like to think, Mr. Chairman, that the great majority of departmental managers believe strongly enough in the merit principle and in the appeal system that they would not run the risk of tarnishing the almost 50 years of

history that we have had with the appeal procedure and the merit principle by perverting it in this way. There will always be exceptions, I suppose, and there will always be people who try to take advantage of it. We try to police this; we move in and even though, sometimes, we uphold an appeal, we will still take the position that it would be a mistake for the individual who won the appeal to continue to be employed in the department where he has won the appeal and in those cases we would try to find him a job of comparable level in another department if feeling have been aroused to such an extent. This has happened occasionally; certainly within my knowledge it has happened.

Mr. TARDIF: I would not want to give the impression, Mr. Chairman, that it is general throughout the service that the man responsible for personnel would behave like that. But it is like weddings that work out well; you never hear about them—you only hear about the couples who wish to be divorced. It may be the exception but it does happen often enough.

Did you ever hear of a case where a man was in line for a promotion and they transferred him to London, for instance, for a year and in the meantime they put somebody else in the job for which he was qualified? When this man came back at the end of the year's service in London, he was told, "Well, it is too bad; the job has been filled and there is nothing we can do about the man who is filling it now." I have heard of a number of cases like that. I hope, with these new bills, that this will be eliminated completely.

Mr. CARSON: I would hope so, too, but it will never be eliminated entirely. I am sure, Mr. Chairman, that I do not have to tell students of human behaviour, such as members of parliament, that there is, even within the civil service, a small minority of what I suppose my legal friends would call, "litigious paranoiacs", people who are professional appealers and grievors. We have a small group of them within the service and you probably know most of them.

Mr. TARDIF: They tell me that some members of parliament are like that.

Mr. WALKER: I would not think so. Of course, it is an allergy, in itself, to go for a recount at election time.

Mr. CARSON: We will never get rid of those, and this small, small group will distort, misrepresent and misread the most scrupulous performance by an appeal board and will be convinced that there are slack hands under the table and all kinds of things.

Mr. TARDIF: Mr. Chairman, those are not the type of people who have made representations to me; their representations have been reasonable. You can tell when they are reasonable; they are not complaining about anything and they have the proof. Would you suggest they appeal in very many cases? They do not know what to do because they are scared.

I have a case right now, Mr. Chairman, of a man who works in the naval department who is caught between the new policy of integration and the navy's refusal to accept it generously, who will probably be passed over by somebody who is a member of a naval staff. It will be an injustice and I know that probably will be the end of his career.

Mr. CARSON: If he is a civil servant I hope he will appeal.

Mr. KNOWLES: Mr. Chairman, we were teasing Mr. Carson a moment ago about the drawing up of job descriptions and I think I joined in the teasing.

That may not show in the record quite in the spirit in which it was given. May I counteract it by saying that I know of a case—I will not identify the time or location—where I thought the description was written so a certain person would get the job, but he did not get the job.

Mr. CARSON: A surprise candidate appeared out of the blue.

Mr. KNOWLES: You apparently know the case.

Mr. WALKER: Following up this business of appeals, have you any idea of the percentage of successful appeals?

Mr. CARSON: Yes, Mr. Walker. We give you these figures each year in our annual report. I could give these to you under the various headings. The total number of disciplinary appeals in the calendar year 1965 was 184; the number of appeals allowed was 13; the number dismissed was 139, and the number withdrawn, 32.

Mr. Chairman, I should explain the number withdrawn. Very often we are finding, and we are trying to encourage this more and more, that the appeal process should be a preliminary hearing and should be got under way almost immediately that someone registers a grievance or an appeal. Very often the individual is appealing because he lacks information or lacks knowledge of the reason for the management action. We find that if we can provide the individual with quick and fast explanations that in some instances he does withdraw his appeal. We do not encourage people on our own initiative to withdraw appeals but very often if they get the information they do.

Mr. WALKER: What I was speaking about really was appeals of appointments, competitive appointments where an unsuccessful candidate appealed.

Mr. CARSON: I will give you those too, Mr. Chairman. On promotion, in 1965 there were 810 appeals heard and 94 were allowed.

Mr. WALKER: Very good; about ten per cent.

Mr. CARSON: That is correct, 12 per cent.

Mr. TARDIF: I wonder if that reflects the idea that a great many civil servants have, namely, that it is useless to appeal, because that is a very small percentage.

An hon. Member: I thought that was very high, frankly, 12 per cent.

Mr. CARSON: Mr. Chairman, it all depends on the way you look at these things. I would think that a ten per cent upholding of appeals would be a very fair figure. It certainly suggests that our appeal boards are honestly trying to give the civil servants the breaks. I have to ask you, gentlemen, to take something on faith.

I would like to think that most supervisors or managers, and certainly the great majority of our Civil Service Commission officers, are trying to handle promotions in such a way that there is no ground for appeal: that they have been scrupulously fair in their handling of the rating board and that the appeal would be an unusual procedure. If you accept that, as I do, then one would hope that the number of times in which an appeal was upheld would be very, very small; otherwise, it would suggest that we are not doing a good job in the first place.

Mr. WALKER: Do you feel that that 12 per cent would be exceeded if appeals were turned over to the bargaining table as a bargainable issue?

Mr. CARSON: Mr. Chairman, there have been a number of suggestions made that appeals on promotions should not be under the jurisdiction of the Civil Service Commission: that they should be housed in some other ward or should be part of the collective bargaining process with adjudication by tripartite boards. Mr. Chairman, I think that is something that parliament has to face up to and decide.

You have up to now seen fit to entrust to an independent commission of three commissioners the task of upholding the merit system. Part of the preservation of the merit system, it seems to me, is the conducting of appeals. I, for one, feel that you would be taking away from this independent commission one of its most important functions in preserving the merit principle if you relieved us of responsibility for the hearing of appeals and the adjudication of appeals.

There have been suggestions made, Mr. Chairman, that the commission should not be the adjudicator of appeals because in effect it is adjudicating its own decisions. Well, I can only assure you, Mr. Chairman and members of the Committee, that the commission is scrupulously concerned about this. Our appeals division is an entirely separate branch of the commission from the staffing branch. We make sure that both of these branches report independently and directly to the three commissioners.

There has never been any suggestion, as far as I have been able to determine and I have been assured by my colleague Miss Addison whose memory goes back a little bit further with the commission than mine does, that this has always been the case. The appeals division is extremely proud and extremely jealous of its entire independence from the commission in its staffing role. These two bodies come together at the level of the three commissioners only, and I have never found myself or my colleagues tempted to adjudicate an appeal in such a way as to justify a staffing action that the commission with its other arms has had to do.

Mr. LACHANCE: Do you feel, Mr. Carson, that the appeal machinery should be outside of the commission?

Mr. CARSON: Mr. Chairman, again I must say, with respect, that I think this is a decision that parliament must make, but I feel, personally, and I would like to say this, that I do not see very much purpose in parliament entrusting the preservation of the merit principle to three independent commissioners if it then turns around and says, we do not trust you: we are going to set somebody else up to adjudicate the independence of your decisions.

Mr. FAIRWEATHER: I just wanted to get back to the job specifications again for a minute because perhaps I have not understood the scene around Ottawa. I am new, but I have heard on more than one occasion from senior people that there are particular people with unique qualities who should be in the public service, and therefore, the departments will design job specifications for these individuals. They might speak nine languages or something. Do you mean to say this is not done? I have heard it many times from people I trust at the deputy minister level.

Mr. CARSON: Well, Mr. Chairman, I have seen no evidence of it. It may have been done, in the past.

Mr. FAIRWEATHER: I am not saying it is wrong, if it is a particularly meritorious person that would enhance the public service and therefore you design job specifications around him.

Mr. CARSON: Well, Mr. Chairman, we scrupulously examine all bulletins that go out to make sure that they are germane to the duties that have to be performed, and the inclusion of something like an individual having to speak nine languages would be scrubbed out immediately unless it were germane to the duties to be performed. We would say, "this is irrelevant, you are trying to stack the deck." Our concern is to get the very best people in Canada into the public service to perform various jobs. I think we would be misleading ourselves and the people of Canada if we were trying to draw specifications to attract individual A. Advertising is expensive. I think our budget for advertising this year is running around a million dollars. This is a very expensive proposition and we engage in advertising only in order to make sure that we ferret out everyone with talent in Canada that we possibly can. If you have noticed in the newspapers recently, our advertisements are getting briefer and briefer. There used to be a time when we gave out very elaborate advertisements. Now we are trying to get them down to be punchy and effective and dealing in the most general terms. We are trying to pitch them at the level of the person that we want in the community and at the salary level and hoping that we will attract everyone that we possibly can. Our concern is to see that not only everybody in Canada gets a fair crack at working in the public service but more importantly that we do get the best people in Canada to fill the vacant jobs.

Mr. FAIRWEATHER: Are any recruits exempt from this system of employment?

Mr. CARSON: Oh, yes. The commission does make a few appointments each year under Section 25 of our act. The commission is authorized to do so under certain special circumstances, and these I could briefly read out to you:

"Where the Commission is of the opinion that a competition is not practical or is not in the public interest because an appointment to a position is urgently required—

Now there has to be demonstrated urgency. Second:

The availability of suitable candidates for a position is limited—

This happens in the higher reaches of scientific positions and technical positions sometimes.

—or a person having special knowledge or skill is required for a position involving duties of an exceptional character.

Under these circumstances the commission will make an appointment without competition. And we report each one of those appointments and the circumstances surrounding them to parliament.

Mr. WALKER: Do you feel that some of your demands for high qualifications are unrealistic as related to the amount of money that is offered for the jobs?

Let me put it another way. Are you having staffing difficulties because of the high standards you are requiring as opposed to the salary offered?

Mr. CARSON: Mr. Chairman, I find myself in a curious position here because those members of my staff in the staffing branch are going to be upset if I do not say we need more money for these positions, but on the other hand the commission still has some statutory responsibility for recommending on salaries to the Treasury Board. Hopefully we will be soon out of this. When I am wearing that hat, and going out and examining honest data across the country, I am satisfied at the present time our wage levels are at a sufficiently competitive level that our staffing branch people have got to work hard but they are not fighting a losing battle. I wonder if that describes the situation.

Mr. WALKER: Yes, that is just great. If I just might ask one other supplementary. I notice in practically 95 per cent of the advertisements a degree of some description is mentioned. This just seems to me to be par for the course now. Are there marks at all for experience, say 20 years experience as against one year at university? Are there marks at all for this or is it standard procedure now for university qualifications for practically all the jobs in the civil service?

Mr. CARSON: Well, Mr. Chairman, at the junior entry level into our professional careers or administrative careers and foreign service officer careers we are pretty well uniformly requiring university education. But, this does not mean that there is any bar to people within the public service proceeding up through the clerical and administrative branch into an administrative job.

Mr. WALKER: I am speaking of recruiting outside the service.

Mr. CARSON: If we are recruiting outside for people above the \$12,000 a year level to fill in our resources in the financial management field, the personnel management field, and the public information field, there we do take experience as a substitute for educational requirements. Recently we appointed regional directors across Canada for the new Department of Manpower. At least three of the senior people who were appointed under that competition brought outstanding experience and no formal education. In those cases we are clearly happy to accept proven outside experience as a substitute for formal education. But, down at the entry level, you will understand, we are trying to improve our statistical chances of success and if the individual has an educational level that will make him immediately useful to us why we do so.

The JOINT CHAIRMAN (Mr. Richard): Mr. Fairweather, are you finished? Mr. Émard?

Mr. ÉMARD: Mr. Chairman, I would like to direct a question to Miss Addison. Do you believe in the old principle of equal pay for equal work for men and women?

Miss ADDISON: Naturally.

Mr. ÉMARD: Could you explain how it is that it seems in certain categories—I am speaking of the lower categories of male and female employees where I think it is more discernible—the women are getting lower salaries than those of men. I am thinking for instance of cleaning women who seems to be in certain cases getting lower salaries than men performing the same work, perhaps not in the same place but in different places. Could you explain that?

Miss ADDISON: I am not aware that they would be getting different salaries. It has always been the principle in the civil service that if they were doing identical jobs they would get the equal pay. But, the jobs that the men are doing may be somewhat different, perhaps supervisory in some cases or a different type of job. They often do a heavier type of job than some of the women do and this would account for a difference in pay. But, if the jobs are identical, then the pay will be equal for men and women.

Mr. ÉMARD: Do you not think this is done on purpose? I know it is done in industry and I have had personal experience myself where the company wanted to pay lower wages to female employees they would classify the jobs slightly differently from men to women but actually the employees eventually perform the same operation. Maybe it is something we should look into in the civil service.

Miss ADDISON: I think it is something we are conscious of some times but it is certainly something that we try to discourage wherever possible. I think in most cases you would find the jobs are classified the same. There may be a tendency in a whole area to use women entirely instead of men. This sometimes happens in certain types of jobs. Then the whole market, perhaps, is depressed but this is often the case outside as well and then when you do a comparison with outside you may find that this market is depressed. But generally speaking if the women are doing the same job as the men it is classified in the same way in the civil service.

Mr. LEBOE: Mr. Chairman, I would like to just ask Mr. Carson a question in connection with the appeals. In industry—and I have been connected with industry—we have a tremendous fight on our hands in connection with the same problem. We do not have the appeals in the same sense but it is the same problem on compassionate grounds. I was wondering if you take this into consideration at all. I know that does not explain what I mean but you understand what I mean.

Mr. CARSON: Well, Mr. Chairman, the commission has jurisdiction over appeals on disciplinary cases and there are a tremendous number of cases that cross my desk in which the Appeal Board has obviously been moved on compassionate grounds to say this suspension, this dismissal, this fine was too severe. We have modified disciplinary cases on compassionate grounds. I reconcile these in my mind with the conviction that I am sure this is what the parliament of Canada would want us to do if we thoroughly examine the circumstances and are satisfied that there were extenuating circumstances.

Mr. LEBOE: I am glad to hear that because from my experience in business it has been a real soulsearcher in carrying out your work on the humanitarian side as well as the technical side.

Senator DENIS: Mr. Carson, as my name has been mentioned by my most pure and immaculate political friend, Mr. Bell, making believe that I am a big bad wolf as far as the political field is concerned, I would like to know from you if you have had more political pressure at this time on the Civil Service Commission during this government's term than the present one?

Mr. CARSON: Mr. Chairman, I can answer this question very easily by saying that I have only been here a year. So I have nothing to compare with.

My impression from talking to my colleagues and the seasoned members of our staff is that the pressure is about equal over all the years. It seems to be decreasing every year a little bit.

Senator DENIS: When you say it is decreasing every year it means that this government is less pressuring than the other one as far as political activity is concerned.

Mr. CARSON: No, Mr. Chairman, I think the explanation has something to do with the economy of the country outside.

Senator DENIS: Now, Mr. Carson, as far as the members are concerned, we know that Mr. Tardif and Mr. Knowles both admitted having exercised political pressure, in order to help a friend; do you know if as far as the members are Liberals or Conservatives, or the N.D.P. for instance, or other persons in proportion to their number?

The JOINT CHAIRMAN (*Mr. Richard*): Senator Denis, I would like to say at the present time that there is no evidence of any political pressure that has been brought before the committee yet. I do not think—

Senator DENIS: Well, Mr. Chairman, according to what my good friend the immaculate Mr. Bell said, he seems to be the only one who has never tried political pressure. If you were a member of parliament, Mr. Carson, and you had an elector coming to you and saying, "an injustice has been done to me as an employee, and I would like you to write to the commission and see what can be done about it", what would you do?

Mr. CARSON: Mr. Chairman, I would write to the commission.

Senator DENIS: Would you write to the commission?

Mr. CARSON: Yes, indeed. And, Mr. Chairman, I would like to have this on the record, that the commission welcomes letters, telephone calls, personal inquiries of any kind by members of parliament on behalf of their constituents or people that they know, because we are interested in knowing as much about candidates as we can possibly learn. By and large, a character reference from a member of parliament is a very useful instrument for us. We welcome them and we take them seriously. I know that among some of my friends who have been members of parliament over the years, they joke that to write on behalf of a friend or a constituent does him more harm than good. Well, I would like to assure you, Mr. Chairman, and the members of your Committee and all members of parliament that it is quite the reverse. We take these seriously. I make sure that they are transmitted to the people who are going to be on the selection board so that they have this character reference or other credentials that are supplied.

Mr. LACHANCE: Does this fall into the category of political pressure?

Mr. CARSON: No, I do not interpret it that way, Mr. Chairman. I interpret this as an effort on the part of the elected public servants to be of genuine assistance to the domestic public servants in carrying out the administration of the country.

Senator DENIS: I would like to know then, Mr. Carson, would those letters received by you from members of parliament likely come more often from members whose electors are in great part civil servants?

Mr. CARSON: In terms of problems of promotion, and classification and this sort of thing, this is true. But letters about new entries into the public service come from right across the country. I would guess in terms of volume, they probably come in higher proportion from the Atlantic coast than they do from the Pacific coast. But this, I think, is merely reflecting the economy of the country.

Senator DENIS: You should receive more telephone calls or letters from Ottawa members, for instance.

Mr. CARSON: Yes, they tend to know more civil servants.

Mr. ÉMARD: Mr. Carson, do you have a retrogression plan by which you compare employees who can no longer perform their duties, especially in the case of manual employees, because they have physical defects, ill health or old age?

Mr. CARSON: Yes, Mr. Chairman, there is provision in the act for people to voluntarily accept demotion to lower levels of jobs. If you will recall, Mr. Chairman, I appeared before the Committee last June when you had the Public Service Superannuation Act under consideration and I suggested that I felt the superannuation act should be liberalized so that some of these cases could be permitted to take earlier retirement without loss of pension. I still think this would be helpful and I hope your Committee will keep prodding the Department of Finance and the Treasury Board to consider such changes. But this does go on, Mr. Chairman, and of course there are many, many efforts made by departments to find lighter work for people to do who can no longer carry the full physical burden. As I suggested to the Committee last June there is also evidence that departments actually carry people on the payroll even though they are not fully productive.

Mr. ÉMARD: Do you have a lay-off allowance plan for when somebody is laid off? I do not suppose that there are too many lay-offs but with automation coming you never know when you will have, I see that in the case of public servants they do not have unemployment insurance, so what would be the action you would take in the case of lay-offs?

Mr. CARSON: Mr. Chairman, the federal government does not yet have severance pay as such for public servants. I think, historically, it has always been felt it was unnecessary because it happened so rarely. And we do work very hard at trying to relocate people who are laid off, but if I may express a personal view, Mr. Chairman, I would think that bargaining on the subject of severance pay should be something the staff associations and the Treasury Board should take under very serious consideration in the forthcoming regime of collective bargaining. I think it is a gap in the public service fringe benefit program.

Mr. WALKER: Mr. Carson, you have had experience in the private industrial field in labour relations and now in the public service. Maybe you do not care to comment. Is there a fundamental difference in labour relations in the government service as opposed to the industrial field outside the civil service. This is a point that has come up continuously and it has to do with the whole philosophy behind the Heeney preparatory commission report. Is there an added factor?

Mr. CARSON: I do not know that one could generalize. A week or so ago I sat across the table from the Canadian Union of Postal Workers and the Letter Carriers Union in the last stages of our consultation and, as far as I was concerned, I could have been right back with the I.B.W. or the street railway-men's union in British Columbia.

Mr. WALKER: Is that your reaction, or the reaction you got from their presentation?

Mr. CARSON: Well let us say our discussion was very reminiscent to me of my collective bargaining experience in outside utilities. But with the great majority of the public service, with whom we consult, the Public Service Alliance, the Professional Institute and the other groups that we meet with, I am impressed with the fact that the Pay Research Bureau data, which has been a keystone of consultation and wage determination in the public service since 1957, is taken very very seriously by the employee representatives. You are debating from mutually accepted facts. This is quite a different dimension that you get in collective bargaining in the private sector.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. BELL (*Carleton*): Mr. Chairman, I have many more questions I would like to ask of Mr. Carson, but I think the time to do it is on the various sections of the bill. There are obviously many gaps in our examination tonight, but I suggest we do this when we go through the bill.

Mr. CARSON: Mr. Chairman, we would be delighted to be on hand when you are doing your clause by clause examination.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Carson, and Miss Addison.

We will meet tomorrow morning at 10 o'clock and, at that time, the letter carriers will be present. If we have time during the day, we will have Mr. Heeney come back.

"APPENDIX L"

(Application for affiliation pending from Customs
and Excise Officers' Association)

United Automobile, Aerospace and Agricultural Implement Workers of
America, International Union
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths,
Forgers and Helpers
International Brotherhood of Bookbinders
United Brotherhood of Carpenters and Joiners of America
International Brotherhood of Electrical Workers
International Association of Fire Fighters
Lithographers' and Photoengravers' International Union
International Association of Machinists and Aerospace Workers
Sheet Metal Workers' International Association
International Printing Pressmen and Assistants' Union of North America
United Association of Journeymen and Apprentices of the Plumbing and Pipe
Fitting Industry of the United States and Canada
International Typographical Union
Canadian Air Traffic Control Association
Canadian Merchant Service Guild
Canadian Railway Mail Clerks' Federation
Canadian Union of Postal Workers
Civil Service Federation of Canada (directly chartered locals)
Letter Carriers Union of Canada
Canadian Marine National Employees' Association
National Defence Employees' Association
Department of Veterans' Affairs Employees' National Association

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 13

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

TUESDAY, OCTOBER 25, 1966

WITNESSES:

Messrs. R. Decarie, National President, J. Colville, Secretary-Treasurer,
Letter Carriers Union of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mr. MacKenzie,
Mrs. Quart,
Mr. Roebuck—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Ricard,
¹Mr. Rochon,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

¹Replaced Mr. Orange on October 25, 1966.

(Quorum 10)

Édouard Thomas,
Clerk of the Committee

ORDER OF REFERENCE

TUESDAY, October 25, 1966.

Ordered,—That the name of Mr. Rochon be substituted for that of Mr. Orange on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

TUESDAY, October 25, 1966.
(22)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.13 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Crossman, Émard, Fairweather, Knowles, Leboe, Lewis, McCleave, Ricard, Richard, Walker (13).

In attendance: Messrs. R. Décarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

On a motion of Mr. Knowles, seconded by Mr. Chatterton, the Committee agreed to accept an oral presentation from the Canadian Merchant Service Guild at a future meeting.

On a motion of Mr. Chatterton, seconded by Mr. Bell, the Committee accepted a letter from the Vancouver Board of Trade as an appendix to this day's proceedings. (*See Appendix M*)

On a motion of Mr. Leboe, seconded by Mr. Walker, the Committee accepted a letter from the Chairman of the Public Accounts Committee as an appendix to this day's proceedings. (*See Appendix N*)

The Committee questioned the representatives of the Letter Carriers Union of Canada on their brief.

The Committee was advised that a copy of the Order-in-Council (Civil Service Regulations) requested at meeting (20) is in the Clerk's hands.

The meeting was adjourned at 11.48 a.m. to 4.00 p.m. this same day.

AFTERNOON SITTING

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada having been duly called to meet at 4.00 p.m., the following members were present:

Representing the Senate: The Honourable Senators Bourget, Denis (2).

Representing the House of Commons: Messrs. Bell (Carleton), Chatwood, Richard, Walker (4).

In attendance: Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service.

At 4.20 p.m., there being no quorum, the Joint Chairmen adjourned the meeting to the call of the Chair.

Édouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, October 25, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Members of the Committee, the Committee has received a wire from Robert Cook, National President, Canadian Merchant Service Guild, which reads:

I would appreciate the opportunity of making oral representation to your Committee on employer-employee relations in the public service of Canada.

Should this be referred to the steering committee for their next meeting?

Mr. KNOWLES: Why not hear him today?

The JOINT CHAIRMAN (*Mr. Richard*): That would be very easy.

Mr. KNOWLES: I so move.

The CHAIRMAN: Is this a supplementary?

Mr. KNOWLES: Is he in the room?

The JOINT CHAIRMAN (*Mr. Richard*): No. We could have him here for the next meeting. Is that agreed?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): There is a letter addressed to the Clerk, from the Vancouver Board of Trade, on Bill No. C-170. Should this be made an appendix to the record of today's proceedings? It is a three paragraph letter.

Is that agreed?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): I want to bring to your attention a letter to Senator Bourget, dated October 17th, from our good friend, Mr. Hales, chairman of the public accounts committee. In short, he wants the Committee to consider some representations on the provisions of clauses 11, 12 and 13 of Bill No. C-182, in which he considers that there are some encroachments on the independence of the Auditor General. Would the Committee wish to have this letter made part of the proceedings?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Should we ask Mr. Hales to come before the Committee? He is entitled to come anyhow, as a member, but should we invite him to come?

Some hon. MEMBERS: I would think so.

The JOINT CHAIRMAN (*Mr. Richard*): This is on Bill No. C-182. I will so instruct the Clerk.

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): The last piece of correspondence is from John Taylor and Clement Devenish expressing their appreciation for our very courteous attention to their presentation.

This morning we have the Letter Carriers Union of Canada, represented by Mr. Décarie and Mr. Colville.

Are the members ready for questions?

Mr. KNOWLES: Mr. Chairman, I believe that these gentlemen, as well as those representing the other postal workers groups, wanted a chance to appear before us after the tabling of the Montpetit report.

I wonder if they have any additional comments which they would like to make in view of the fact that this report has been tabled since they were last before us?

The JOINT CHAIRMAN (*Mr. Richard*): I suppose, Mr. Knowles, your intention is that their comments should be on the Montpetit report as it relates to these bills?

Mr. KNOWLES: I think I would be willing to say that, but I think the reference is pretty wide, or the relationship is pretty wide, is it not? As it relates to collective bargaining.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Yes. Mr. Décarie, we would like to have your comments on the Montpetit report.

Mr. DÉCARIE: Insofar as the Montpetit report on Bill C-170 is concerned, it is very explicit. First of all, it asks us in the fifth paragraph, number 1, to give a trial to Bill C-170, but on the other hand, further in his report, I have not had time to study it completely, as I was outside Ottawa for the entire week-end, but the small section I was able to read in the bill tells us that, so far as negotiation is concerned, for instance, Judge Montpetit states that among the many things that should be negotiated, some are in contradiction with Bill C-170: for instance, promotions, transfers, hirings, reclassification of employees.

I would rather wish to have the opportunity at another meeting of being able to explain more in detail the Montpetit report. Frankly, I have not had the time to study it in depth.

Insofar as relations between employer and employees are concerned, which is also a question of negotiation, the Montpetit report states there should be more dialogue between the employer and employees than at present. However, I should much prefer being able, in a couple of days, perhaps, to come back before the Committee and give more information, since the Montpetit report was only distributed last Thursday afternoon and that I have not had time to study it completely.

(*English*)

Mr. KNOWLES: Mr. Décarie, would you care to comment on Mr. Justice Montpetit's suggestion that the idea of a crown corporation for the post office be studied? I think that is as far as he goes, but he does go that far.

(Translation)

Mr. DÉCARIE: This is a very important question which concerns us very deeply, since Judge Montpetit, among other things, recommends that the Post Office Department be instituted as a Crown Corporation. This request on the part of postal employees and from the Letter Carriers' Union as well as the Postal Workers' Union of Canada, meets with our request. We would like to have the Post Office Department converted into a Crown Corporation. We are in full agreement with Judge Montpetit in this regard.

(English)

Mr. KNOWLES: Provided you had bargaining rights with the Post Office Department as a separate employer, and provided those bargaining rights were akin to those provided in the Industrial Relations Disputes Investigation Act, does it matter greatly whether it is a Crown corporation or not?

(Translation)

Mr. DÉCARIE: Yes, certainly, but it is not only a question of being able to negotiate under the I.R.D.I. Act, but also the question that the Post Office should be considered a Crown Corporation, since the employees themselves do not consider themselves public servants. Postal employees consider themselves as employees just like another employee in the industry at the present time: that is why we are asking for the Post Office Department to be set up as a Crown Corporation. This would also give us the right, it being set up as a Crown Corporation, to be able to negotiate our collective agreement a free collective agreement this time which would give us complete bargaining rights on negotiations on all subjects which are of interest to us.

That is why we are asking that there be a Crown Corporation for the good administration of the Post Office Department. Since the Post Office Department would then become a company just like an industry, it could administer itself, control its finances, it could control profits and losses and we would be considered just like industry, that is what we want, that is what we are asking for, since besides the collective agreement would also be much free than under Bill C-170 and we could negotiate freely, negotiate everything that concerns us.

(English)

Mr. KNOWLES: I gather that you do not take too kindly to Mr. Justice Montpetit's suggestion that you give Bill No. C-170 a try?

(Translation)

Mr. DÉCARIE: In one sense, no, we are not very much in agreement with Judge Montpetit that we should give it a try. After having studied the bill rather completely, we see that Bill C-170 and the collective agreement as submitted to the Government at the present time, is a unilateral bill, a bill which gives all rights to the employer. For us, there is almost nothing left. We can negotiate wages as mentioned, but on the other hand, the president of the bureau, for instance, has all powers. As for the Labour Relations Board we can name no representatives for conciliation, for arbitration, we can name no

representatives to solve our grievances, we can only suggest names and the names suggested might be refused or accepted.

Our representative on this board, will be called the employee representative, but will not be a representative of our choice. When Judge Montpetit tells us to try out a bill like this, Judge Montpetit, he having been an umpire and an expert in Labour Relations matter, perhaps believes that there might be some changes, but we know quite well that once an Act is established by the Government, it can't be changed overnight, it will be a battle lasting years and years before any changes are made.

We do not believe that we should simply try it out, we think that it should be completely changed and Judge Montpetit, even in his report, suggests changes to the bill, but he asks us on the other hand to try it out and, yet, he believes that there should be amendments to it. He wants us to give it a chance. It is all well and good to be a good fellow, but when our working conditions are involved, we must absolutely have a good bill at the outset, that is why we are trying to do so many things to amend it. We are not in agreement with Judge Montpetit to the effect that we should try it out. He says we should and, yet, on the other hand, he tells us there should be amendments.

If there are to be amendments, he should say: "Well, yes, we will try it out with the amendments proposed." Those he proposes, are the same amendments on the other hand that we are asking for.

(English)

Mr. KNOWLES: I do not wish to deflect you from the position which you quite clearly took about the Crown corporations, but I am still wondering, as a member of the Committee, whether it might not be possible to make sufficient changes in Bill No. C-170, or to get most of the workers under the I.R.D.I. Act, and, in so doing, to meet your main point?

(Translation)

Mr. DÉCARIE: That is precisely the point, yes. The bill should be amended in order to satisfy Postal employees, because postal employees don't consider themselves as public servants, they consider themselves as employees working, in a government department if you will, but in a department working with profits and losses. It is a department which could be compared to any other industry, any other industry in the country—the steelworkers, or any other—it is just a department that has profits and losses and, consequently, I don't think we should be under Bill C-170. We protest against Bill C-170. If we were to try it out, it would be practically admitting Bill C-170, which we don't. This bill must be amended. Judge Montpetit recommends certain amendments and that is what we want.

It is not a question of being under any type of bill at all, we want one under which we can negotiate freely everything that concerns us as employees, just as any other citizen in the country.

(English)

Mr. CHATTERTON: Mr. Chairman, I would ask Mr. Décarie this question: Assuming that this Bill No. C-170 is passed without any major amendment, which seems to be the intention of the government, the postal operations group

will form, we presume, a bargaining unit? Do you expect that either the Letter Carriers Union, or the Canadian Union of Postal Workers, will be certified as the bargaining agent for that unit?

(Translation)

Mr. DÉCARIE: Well, we are asking for certification to be given separately to the postal workers and to the letter carriers. Now, the bill provides that those who handle the mail be certified as one unit, as one group, which means that the bill asks that all postal employees, with the exception of positions of typists or clerks, all those who have anything to do with the mail be certified as one group. We oppose this, we are asking for certification for the Letter Carriers Union, because we think that letter carriers do work which is completely different from the others. Moreover, the letter carriers' work is different from any other work in the country because the Post Office Department is, we might say, a monopoly, there is no other post office workers outside of the Government in industry.

(English)

Mr. CHATTERTON: If this is not granted then one or other of the organizations, or perhaps even the new alliance, might be certified as the bargaining agent for this postal operations group? Is that the way you see it?

(Translation)

Mr. DÉCARIE: The way we see it, is that at the present time, the bill forces us to form a council. If we are forced by the legislation, just as any other citizen in the country, we have to obey the law, we will form an employees' council, but it would be formed against our will.

(English)

Mr. CHATTERTON: In other words, if the bill goes through as it is you anticipate that the Letter Carriers Union and the Canadian Union of Postal Employees will form a council which could be certified as the bargaining agent?

(Translation)

Mr. DÉCARIE: Yes, if the law forces us to do this, we will form an employees' council, naturally. We have a joint council which is not a council of both unions, but if the law forces us to do so, of course, we will then have to do so, but this will be another argument we will have against the Government if they force the employees to go through a very small door instead of giving the employees complete control of their own union.

(English)

Mr. CHATTERTON: Assuming that the bill has gone through, and that you have formed this council, can you make a comment on the provision whereby the bargaining agent which is certified ought in advance to say they will go to conciliation and the right to strike, or arbitration? That is, making this option before the certification.

(Translation)

Mr. DÉCARIE: We are opposed to telling the Board in advance, the way in which we are going to solve our problems. Here again, it is hindering the freedom of unions to say to the employers in advance: "Well, we are going to

solve our conflicts in such and such a way". I think that this decision should be reached at the bargaining table itself. In free negotiations, the union as well as the employer is free to decide the way, and in a democracy, things will be decided by means of free discussion between both parties. We do not accept that we should tell the employer in advance that we shall take such and such a step to solve our conflicts. This would be giving the employer all the strategy which the employer does not do under Bill C-170. He is not obliged to any union, under Bill C-170, but all the associations are obliged to the employer under the Bill. It is a hindrance to liberty and we are opposed to it.

(English)

Mr. CHATTERTON: Yes, I understand your point that you do not want to disclose your position in advance of negotiations. That is one point. The point I was trying to get at specifically was that of having to make your decisions as to conciliation or arbitration in advance of even certification. That was the first point I was trying to cover. I accept the point that you have made. My question is certification prior to opting for one or the other alternatives.

(Translation)

Mr. DÉCARIE: You mean to say before obtaining certification? According to the Bill, we must tell the employer the way in which ought to be settled, grievances or conflicts. As we understand it, as I said a little while ago, we are completely opposed to saying what direction we will take. But if the Bill passes in its present form, we will fight, first of all, so that it won't pass in its present state, but if the law decides that we must do this, that we can't come under the I.R.D.I. Act, then we will have to seek other means so that the employer will know nothing. Maybe there is something in the Act which will give us the right not to tell the employer how we want to settle our disputes before certification. According to Bill C-170, we are certified by the governor in council, by the Chairman of the Canada Labour Relations Board. Here again, it is a unilateral decision. And we don't want it. These are things which are discussed among members of both unions.

(English)

Mr. CHATTERTON: You have indicated that you would prefer to be brought under the provisions of the I.R.D.I. Act. Mr. Heeney indicated that there would be certain weaknesses to that. In other words, there would have to be amendments to the I.R.D.I. Act. One of the drawbacks he pointed out with regard to the employees is that under that act the Minister of Labour, who has certain powers and authority under that act, he would, in effect, represent the employer in the case of public employees; whereas in other disputes he acts more or less as a third party. What is your comment with regard to that point?

(Translation)

Mr. DÉCARIE: Under the Industrial Relations and Disputes Investigation Act, the Minister of Labour would give us certification. Is that what you mean? That we would be certified by the Minister of Labour rather than—

(English)

Mr. CHATTERTON: No, not so much with regard to certification but with certain powers and authorities which the Minister of Labour has under that act,

for instance, in the appointment of conciliation boards and arbitration boards, and so on.

(Translation)

Mr. DÉCARIE: Well, our request is to the effect that we should be under the Industrial Relations and Disputes Investigation Act, Bill 152, I think, because it would give us all freedom to negotiate, even if the Department of Labour were to certify us. As we represent more than 51 per cent of our membership, we cannot be refused certification, even if the Minister of Labour has powers. I know that the Minister of Labour would have powers in this case, under the I.R.D.I. Act, as well as the Canada Labour Relations Board. In this case, if we are certified by the Department of Labour as being government employees, this bill would give us freedom to negotiate everything we want, everything that can be negotiated around the bargaining table. That is why we would rather come under the I.R.D.I. Act.

(English)

Mr. CHATTERTON: Mr. Chairman, may I turn to Bill No. C-181, or do you want to continue on Bill No. C-170?

Turning to Bill No. C-181, Mr. Décarie, what is your comment with regard to the position of the Civil Service Commission in its managerial capacity, so to speak, and at the same time being the final tribunal on matters of grievance with regard to recruitment, promotion, transfer and so on?

(Translation)

Mr. DÉCARIE: Under the new act, the Civil Service Commission retains the power of promotion, hiring, demotion and transfer. I believe that the Civil Service Commission, in this case, gives itself too much authority once again. All these things should be negotiated. I think the Civil Service Commission should only be a hiring agency for the Government, for all the departments. Now we are asking for a Crown corporation, and if that ever happens, I think that the Civil Service Commission should just retain the role for which it was instituted in 1924, I believe, and that is that of recruiting employees. But the right to decide about demotions, transfers, reclassification, this should be left up to the unions themselves to negotiate, and even how it is going to be done, not leave this to the Civil Service Commission.

Once again, it is a very important problem. It is job security which is being taken from us and given to the Civil Service Commission. They say that we can't negotiate it. I think it should be decided around the bargaining table, to decide on a transfer, promotion, reclassification of employees. It should not be left up to the Civil Service Commission. Without discussion, without bargaining it is, once again, giving outside jurisdiction over negotiations to another office which is independent of the government. The Civil Service Commission should keep to the role for which it was instituted and that is hiring of employees in the public service.

(English)

Mr. CHATTERTON: Apart from the point that you have made that these other aspects such as demotion, transfer and promotion should be non negotiable, assuming the bill goes through as it is with regard to those fields being non negotiable, what is your comment with regard to the fact that if there is a

grievance in these fields the appeal is made to the body that made the decision in the first place, rather than to an independent tribunal?

(Translation)

Mr. DÉCARIE: I did not mention, a little while ago, perhaps I forgot, that grievance procedure should be left to both parties involved, that is to say, the union and the employer. In our case, when I say employer, I mean the Post Office Department. The grievance procedure should be left there and should be capable of arbitration, just as in any other union in industry. Grievance Procedure is established between both parties and not left to an agency appointed by the employer. Both parties involved should negotiate the grievances, any grievance which comes up, whether it be about a promotion or a transfer, for instance, or reclassification. That grievance should be discussed and resolved by both parties. The two parties should solve all grievances, including reclassification. It should not be left up to an independent agency. It should be left to the employer and employee to solve these matters.

(English)

Mr. CHATTERTON: I do not think, Mr. Chairman, that Mr. Décarie quite understood the portent of my question. Assuming that the matters of promotion, demotion, transfer and so on, remain non-negotiable then, what is your opinion with regard to an appeal from a demotion, for example, having to be made to the commission itself which made the decision in the first instance rather than to an independent tribunal? In other words assuming that these fields of promotion and so on are not part of the collective agreement, what do you think of the fact that the appeal is made to the commission that made the decision in the first instance?

(Translation)

Mr. DÉCARIE: Now I understand your question a bit better. You mean to say that the Civil Service Commission, being responsible for hiring, promotion and so on, should also deal with appeals?

(English)

Mr. CHATTERTON: That is the way it is now.

Mr. DÉCARIE: That is the way it is now proposed in the bill.

Mr. CHATTERTON: Yes.

(Translation)

Mr. DÉCARIE: We are opposed to this. If it is to be left to an independent tribunal, it should be a board of arbitration, and not the Civil Service Commission. We are opposed to this because if it is given to an office which is independent from the bargaining—independent from the government, because the Civil Service Commission is completely independent from the government—according to the Act, the government cannot suggest anything as to what the Civil Service Commission should do and cannot undo what it has done. It is completely independent. But in collective bargaining, these things must be negotiated by an independent tribunal where a representative of the unions sits and is appointed by the union. This gives more of a chance for grievances on

promotions, classifications, and so on to be settled. But if the office is independent from negotiation, from the government, when there is a decision to be made, we have no one on the Board appointed by the union. Even the employer, through the Post Office Department, has no representative on the Civil Service Commission and will not have. It is a completely independent office and we cannot accept this. There must be someone from the union on the Board who takes an interest in the employees. Does this answer your question?

(English)

Mr. CHATTERTON: Well even if, let us say, the constitution of the commission is changed to provide for representation by the employee, would it not be a rather difficult position for the same agency that makes the decision on, for instance, demotion, to hear the appeal?

(Translation)

Mr. DÉCARIE: If, on the Civil Service Commission Board, we could have a representative of our choice on the Board, to solve a grievance about promotion, then it would become an arbitration board. We could call it by a different name, but it would amount to the same thing. That would be acceptable. But on the Civil Service Commission's Board, which is to solve the case of a demotion or transfer, we should have a representative from our union on this board. Even if the administrative procedure is carried out by the Civil Service Commission, as long as we have a representative of the union on the Board, which could be called an arbitration board, it would be acceptable in that case.

Mr. LEWIS: A permanent representative?

Mr. DÉCARIE: He could be a permanent representative of the Civil Service Commission who would represent our union and be acceptable to both parties. Then, on a Civil Service Commission board, if we had a grievance at least we would have a representative there. Otherwise we have none.

Mr. ÉMARD: Mr. Chairman, I am in agreement with Mr. Décarie when he says that if the Post Office Department were a Crown Corporation, it would be much easier for collective bargaining, grievance procedure, and so on, and that employees would be treated in the same way as in industry. However, I think we must face reality, and in the case of a strike, I do not believe—this is my own personal opinion—from what I saw during the last postal strike, I do not believe that a strike in the Post Office Department can be treated in the same way as in industry. I do not think it can last as long as it could last in industry without government intervention. It is not that the government likes to intervene in strikes like in the case of the railway workers, but I do not think there is any other solution which has been proposed at the present time to solve these problems. And even in the case of postal workers who are supposed to go on strike shortly too, public opinion would be aroused to such an extent that the government is the only one that can do anything; and in that case we have to intervene even if we are not ready to do so, even if it is against our wishes. We have to intervene to make you go back to work. Now, do you believe that in the case of a strike, if you were a Crown Corporation, you could be treated in exactly the same way as private enterprise?

Mr. DÉCARIE: I do not see why we could not be treated in the same way as in private enterprise. First of all, I am afraid that I am not in agreement with

you to the effect that there is going to be a strike in the Post Office Department, or that we are going towards a strike. This is before Treasury Board at the present time. We have demands, we want Treasury Board to come in with a counter-proposal; we have nothing for the time being in this regard. The question of a strike has not been decided. For the moment we do not know when, we do not know even if there is going to be a law.

Mr. ÉMARD: I am relying on the correspondence we get each day. Every morning I receive a Christmas card saying "Hurry up and send out your Christmas mail because the postal workers are going on strike".

Mr. DÉCARIE: This does not come from the offices of the two unions, for sure. It might be somebody in your riding, however, who is supporting the letter carriers. It might be that. However, I do not see why we could not be treated like any other industry—

(Translation)

Mr. ÉMARD: Could I have an answer to my question?

(English)

Mr. KNOWLES: I received a card too, mail early and avoid the rush.

(Translation)

Mr. DÉCARIE: The question was—I do not see why we could not be treated like any other employee in the country, if ever there were a postal strike. If we have a right to negotiate, if we have a right to strike, and after having negotiated, I am not saying for two days and then saying we are going on strike, but if we have a right to negotiate and discuss our things, let us say after six months' negotiation, I think the employer should have a little bit of goodwill. What happens in strikes after negotiations lasting five or six months is that the employer becomes adamant and does not want to give at least the minimum to the employees. That is why there are strikes. That is why I do not see why we could not be treated like the others.

Mr. ÉMARD: Please note, I am in agreement with you, but this will not solve the problem. Do you believe that railways are treated the same as others in the case of a strike? I do not think so, because each time the railways go on strike, there is always government intervention. And they have to go back to work. I hope that what you want will come true, but I think that in your case, what will happen is that as soon as you are on strike, if ever you do go on strike, immediately public opinion will force government intervention and we will have to intervene in the same way as we are doing at the present time in the case of the railways.

Mr. DÉCARIE: You are speaking of public opinion. Public opinion might ask the government for us to go back to work, but do not forget that in the last strike, public opinion asked the government to give us what we were asking for too. And when the government refused and became stubborn about it and the public was without mail delivery for ten days, or seventeen days as in the case of Montreal, then they asked the government to have us go back to work. But the first request of public opinion was for the government to give us what we were asking for, which was reasonable. The last time we were not asking for unreasonable things. The same thing is repeated each time. In the railways it is the same thing.

Mr. ÉMARD: What do you mean that the last time, you were not asking for unreasonable demands?

Mr. DÉCARIE: We were asking for a small increase of \$600 and oh, it was quite a furore throughout the country. You said that public opinion is asking the government to have the employees return to work. But public opinion can only ask for this after having asked the employer, whether it be the government or otherwise, to meet the legitimate demands of their employees. Why does the government not follow the first recommendation of public opinion instead of the last?

Mr. ÉMARD: Here in the House, please note we are not in negotiations. This is carried on with Treasury Board and then, in the final analysis, we have to intervene at the last moment and order a return to work. But I do not think, all the same, that this would be a satisfactory solution. If postal workers eventually had to return to work as a result of government intervention, I do not know what we could do besides that, even if we wanted to say "I am in agreement with you that the Post Office Department would certainly gain if it were a Crown Corporation" and that all collective bargaining could be carried out in the same way as in industry. I think so, because the Post Office Department, as you mentioned, is a department which operates with profits and losses, contrary to most other government departments. But, just the same, there is always that problem of a strike. And while you are negotiating, if you think that if eventually you go on strike, as in the case of the railways, eventually then you will be ordered to go back to work by government intervention. I think that then both parties do not negotiate in the same way.

Mr. DÉCARIE: Both parties do not negotiate in the same way. Do you mean post office and railways, or—

Mr. ÉMARD: No. I mean the Post Office Department, for instance, with the postal workers. What we have in mind that eventually, in the case of strike which, let us say, would not last more than a week or two, they will have to go back to work. It is very important and you could not stay on strike very long without public opinion being aroused and the government being asked to have you return to work, against your wishes and against the wishes of many Members of Parliament, but at the present time there is no other solution.

Mr. DÉCARIE: I know that the pocketbook is a very important thing. It is perhaps very important for the country's economy. But in public opinion—you spoke of public opinion a little while ago—I have a little bit of experience in this regard. When the government asks the postal workers to go back to work, it is not only through public opinion that it does so, but through large corporations, for instance, because of the mail. And here again it is always the same matter. Why does the government always lean towards the big man against the little man? The same is true in the railways or in any other industry. When the government starts infiltrating into negotiations and appoints a mediator or a conciliator and everybody has to go back to work, it is always to accommodate the employer in that case, because the employee is bargaining for months and months and months. You know that it is very costly, it is a great deal of work, and then the employer becomes stubborn, knowing that the government will intervene and say the employer is right. This is what happens in almost all strikes. In the case of strikes where they have asked for

unreasonable things, if we are asking for the control of profits, for instance. But why the small employee who is paying taxes like anybody else—he might be paying much less in taxes than the employer, than the big employer, but he also has much less left than the big one—and this is the imbalance at the present time. I think that after having negotiated and negotiated and negotiated, when demands have almost been finalized, the employer stops and waits then for the government to intervene, to name a mediator or a conciliator so that everybody will go back to work. And then who profits by this? It is always the employer in almost all cases. An increase of so much is given and profits are increased by double. And this is what creates inflation. People say it is strikes that create inflation, but the reverse is true. I am not an expert in economics, but we can see through the press and through editorials that this is always the case.

Mr. ÉMARD: I do not want to belabour the point. I have finished, thank you.

The JOINT CHAIRMAN (*Mr. Richard*): At what time—immediately?

(*English*)

Mr. LEBOE: I just want to ask a supplementary question of the witness. Would you not agree, sir, that in accepting certain types of employment or occupations in the country there are certain responsibilities which go with the acceptance of that particular occupation? I am thinking of public service—railroads, post office—and I will go to the extreme to get the point home. If you have someone who is very, very ill at your place, and the doctors and nurses have taken their position in the field of medicine, health care transcends striking or saying to you, “well, I quit at 5 o’clock; therefore, I am not available and there is no one available because we quit at 5 o’clock.” At 8 o’clock in the morning you can call us.

I am taking this as an extreme case because I think, personally, that if I were to hire out in any service—essential service—to the country, whether it be railroads or whether it be Post Office, I would understand that there are certain limitations that are put upon me when I accept that employment.

What I am really saying is that personally I do not believe there should be the right to strike in these particular services. There should be negotiation, yes, to the nth degree, and retroactive pay when the decision is made. If you get retroactive pay when a decision is made, then there is no money being saved by the fact that it has taken a long time. This is delay in getting the money, but there is no money being saved by the department, or the government, or the employer, as the case may be. Do you not think that there is this responsibility, when you hire on and take the job, which should be recognized? I feel very strongly, in public service of this kind, that this is a responsibility that the individual undertakes and, therefore, there should be no such thing as even the thought of a strike in such services as the Post Office or railroads, where all the people of the country are put to no end of problems and trouble which they themselves have no part in.

I think the railroad strike took place just before the people could get their children back to school and they were stranded all over the country with their families, and now we are talking about a postal strike just prior to Christmas. Why not after Christmas, when the rush is over? Why put the whole country in jeopardy to get your point home and make it that much more difficult as far as the public are concerned. I have gone a long way in explanation here, but I wanted to make sure that the point is absolutely clear, because there are not

enough people, I think, in this country who will come out and say, I do not think the public service, or these services, should be permitted to strike. I am speaking personally, not for the party.

(Translation)

Mr. DÉCARIE: To answer this, I should say that any public servant, any postal employee, is very conscious of his responsibilities to the public. I think that in the Public Service to-day, you have probably the most devoted employees, most dedicated to their work. I will not say the most honest, but the most dedicated to give to the public the best service and better service. Now, if we do have duties, we also have rights. Your suggestion to the effect that a strike could take place in January, for instance,—I will speak to my colleagues about it, surely. We do not want to attack the public. We will have it in January, in that case. But if we have duties, we also have rights, I repeat. And when a young man goes into the Post Office Department and accepts the position of either a letter carrier or a postal worker, that does not mean that all his rights have to be removed from him. He is to be given reasonable wages and reasonable working conditions. If his wages are not reasonable and his working conditions are not reasonable, he has to do something. If the only way is by going on strike, well, then, we should have the right to go on strike. If we can solve all our differences without recourse to a strike, so much the better. Nobody wants a strike. But if we cannot do otherwise, then we must have this weapon. It is the only weapon left to the union, left to the workers: the right to strike or to withdraw his services is the only weapon he has, if we cannot negotiate directly with the employer. Now, as to your suggestion for January, we will speak about it. We will discuss it surely. We do not want to deprive the public of service. That has never been our intention. We want to give the best possible service. We do it in all kinds of climate, all kinds of weather, but if we cannot reach an understanding with the employer to earn a reasonable wage, which would be about \$5,000 to-day—on entering the service they only make \$4,200—there is a great big margin between the two. Now, if we have to fight in order to obtain it, well then, we will fight, there is no other means. We are not making a strike against the public, I don't think anyone has any idea of striking against the public, it is against the employer always that the strike is made, it is the sovereign body of the country, we have to respect the laws, yes, but we have to find a means to do it. If it is the only one left, we will use it, but after the holidays.

The CHAIRMAN: Your comments are very useful to other parties besides those who are sitting here this morning. Thank you, Mr. Lewis.

(English)

Mr. LEWIS: I cannot help making the comment, Mr. Chairman, that a strike which would prevent the purchase and distribution of Christmas presents might be a greater halt on inflation than some other measures that have been taken.

Mr. LEBOE: I do not think it would prevent it.

Mr. LEWIS: I am not going to pursue this strike question because I would like us to remind ourselves, Mr. Chairman, that even under Bill No. C-170, it is possible for the postal unions to make the choice of conciliation and strike, so that I do not think that is relevant.

I would like to ask first, Mr. Décarie, does your union cover all the inside employees of the Post Office, or would there be some employees not in your union?

(Translation)

Mr. DÉCARIE: Only the outside workers, the letter carriers only. It is a homogeneous group, if ever there was one in the Government, there are only the letter carriers involved, they all do the same type of work and they work outside the Post Office, they don't work inside, we have no one else but letter carriers.

(English)

Mr. LEWIS: Suppose one takes the "Facteur" and the "Postier", you have the two unions. What employees of the Post Office Department would still remain outside any union?

(Translation)

Mr. DÉCARIE: It would then be employees, clerical workers, telephone operators, stenographers, typists, these are the only workers who would be outside the scope. Now, several of these employees belong to a union.

Mr. LEWIS: And how many employees are there in these classifications?

Mr. DÉCARIE: Oh!—

Mr. LEWIS: The proportion?

Mr. DÉCARIE: There are 22,000 employees—
Do you have any figures like that?

(English)

Mr. COLVILLE: No, I do not. There are 22,000 employees in the postal workers and letter carriers' union. The letter carriers' union covers all the people who make deliveries to the houses and do the sorting for their walks inside. The C.U.P.W. covers all the employees who handle the primary sorting of the mail and look after the wickets.

Mr. LEWIS: That is why I called them inside employees. I am interested in knowing what is the total work force of the department. You say there are 22,000 in your two unions. Leaving the postmasters out, what other employees are left?

Mr. COLVILLE: There are the railway mail clerks who cover about 600 employees at the present time, I think. I do not want to be quoted on this.

Mr. LEWIS: Are there stenographers, telephone operators?

Mr. COLVILLE: There are stenographers, telephone operators, and what are called Clerk 4's who are strictly in the clerical and regulatory staff now. They work in the postmaster's office.

Mr. LEWIS: How many of those would there be? I just want to get an idea. Is it in the hundreds or in the thousands?

Mr. DÉCARIE: In the thousands.

Mr. LEWIS: In the thousands, I suppose.

The JOINT CHAIRMAN (*Mr. Richard*): I understand, Mr. Lewis, that the Clerk tells me that on page 13 of the Montpetit Report that is there. I am not sure, but that is his memory.

Mr. DÉCARIE: There are also the part-time employees, women sorters.

Mr. LEWIS: There is some description of it but not in that detail.

May I go back to the question of a crown corporation, Mr. Décarie. You gave rather general reasons that you wanted the right to negotiate like all other employees. There are other factors in the public service arrangement and I would like to know as well whether those are also factors that you are not interested in or that you want to avoid. For example, you have the Civil Service Commission that would control, if you are not a crown company, and no matter what amendments are made to the act or are not made, you have the Civil Service Commission that would control presumably appointments, and above that the merit system that everybody wants to retain in the public service generally.

In trade union terms that means that no matter what amendments are made to Bill No. C-170, the likelihood is that no trade union working under it will be able to have, for example, a seniority clause for promotion because promotions will be on the merit system established rather than on seniority. Does that make any difference to the postal workers? Is there any reason why you should be governed by what in the public service is called the merit system, instead of being governed also by the seniority system in ordinary unions?

(*Translation*)

Mr. DÉCARIE: All these things should be negotiated around the bargaining table.

(*English*)

Mr. LEWIS: Yes, I understand this, but if a system does not apply to the postal workers, the question of negotiation does not follow. If we should have the merit system for these things in the Post Office Department, as we have it in any other department, for example, the Department of Trade and Commerce, then merely to say that it should be negotiated does not entirely help us. I am asking whether the Post Office is a different kind of organization. I gave you an example, the seniority system in Polymer Corporation which is a crown company where you are entitled to be promoted, assuming you are able to do the work. If there are two men, both of whom are able to do the work, the man with the senior service is entitled to the job. That is written into the agreement. Can this kind of thing be applicable in the Post Office because I can see where it may not always be applicable in other departments?

(*Translation*)

Mr. DÉCARIE: Well, this question should be applied to the Post Office. Department, we believe and I think we have mentioned in our demands to the Post Office Department, we have already mentioned that promotions should be given on a seniority basis insofar as the two or three candidates can do the work, let the one who has the most seniority obtain the position, that is one of our demands to the Post Office Department for several years, it is not mentioned in Bill C-170, we did not mention it. But we did mention it often in our appeals to the Civil Service Commission.

(English)

Mr. LEWIS: In other words, you say that there is no reason why this kind of ordinary trade union-management practice cannot obtain in the Post Office Department.

(Translation)

Mr. DÉCARIE: Precisely, and we can't see why these things which are absolute in industry, why there would not be a regulation in the Post Office Department, we have been asking for several years that seniority in the question of promotions, transfers or any other things of the type, that seniority should be the prime factor insofar as the candidate has the required qualifications, of course.

(English)

Mr. LEWIS: Have you thought of this, Mr. Décarie? I am just trying to learn and get information, as are all the members.

You say the Post Office is an organization which is concerned with profit and loss like ordinary industry. That would mean, that if you are negotiating, then the question of profit and loss would become relevant to your salary. If the profits are big you might ask for more salary; if the profits are small the crown company would refuse you more salary. If in some situations there is no profit and the department works at a loss before it has raised the Post Office rates, in other words, in that kind of situation you are faced with what is known in our trade, yours and mine, as you know I have done a lot of labour work, as ability to pay would enter into the picture. Whereas if you are a public servant, then what enters into the picture, or what should enter into the picture, it does not always do so, is the adequacy of your conditions in comparison with the salaries and conditions in the society as a whole. Do you follow me? You have an entirely different approach to the negotiations in one case and the negotiations in the other. Does that not make a difference in whether it is entirely wise to base yourself on the profit-loss concept of industry?

(Translation)

Mr. DÉCARIE: We firmly believe that if the Post Office Department were to administrate itself, and not be at the mercy of the government for instance, when the Post Office Department wanted to increase the cost of postage by one cent, this has to go through the House of Commons and has to be approved by all members of Parliament. This is a political matter. But if the Post Office Department were independent, were a Crown corporation and were to administrate itself, I am ready to take the chance on Profits and Losses for wage increases. I am certain that if the Post Office Department were to administer itself, instead of being administrated financially by a Treasury Board, and to have to rely on a budget of the Treasury Board, I am ready to take a chance on it. If the Post Office Department were to administer itself and its finances for instance, the difference between profits and losses would give us wage increases which we are asking for at the present time. You know as well as I do, Mr. Lewis, that the Post Office Department, at present, gives subsidies to large companies, large publishing firms, like newspapers and magazines. We lose \$40

to \$45 million a year because we are not asking for the actual recovery of what the Post Office Department has to pay to deliver and handle this type of mail. If the Post Office Department were to administer itself, if there were a loss somewhere, as good administrators they cover these losses by increasing the rates, and so on. I am in agreement with you that if the Crown corporation is still financially linked to Treasury Board, and if there is an increase in rates to be approved by Parliament, then we are taking a chance, there will always be losses. We have been asking for this for several years, and the Postal Workers Union has already presented briefs in this regard, for the last four years, to the Post Office Department. We have stated that they should not exist. These losses should be covered by the raise which companies should have to pay, so that we can deliver the merchandise.

(English)

Mr. LEWIS: But that is a question of policy, Mr. Décarie. I am sure you know better about it than I do. If you say that certain tariffs should be raised, certain postage costs should be raised, you may be right. I really do not know. I am ignorant in these matters. But that is a matter of policy to be decided. You are saying that it is possible to raise the price of the service in order to make a profit rather than have a loss. Now, it may well be in the public interest, if not today, then ten years from now, not to have a profit in the Post Office any more than it is in the interest of Canada that there be a profit in schools. There are certain services in a society in which profits and losses should not enter, and it may be that the Post Office is such a service. Why should you an employee of the Post Office want to be tied to the policy of raising rates in order for you to get a just salary? That is what—and I say this with great respect—seems to me an error. If you want a separate crown corporation for the purposes of bargaining, fine. But do not put it—perhaps it is because of my prejudices politiques, n'est ce pas—do not put it on the question of profit and loss because I can well see a situation where the Canadian people can better be served even if there has to be some absorption of loss. That may not be today; that there may be room for movement today, but there may not be five or ten years from now. Is it not enough for you to take the position that your function is not an ordinary public service function; it is the direct provision of a service to people in the same way as the hotels and restaurants and deliveries of all sorts. Therefore, you think that you can have a separate crown corporation to deal with the matter in the normal trade union way, seniority, wage negotiations and all the rest regardless of whether there is profit or loss in the crown corporation. Would you not agree?

(Translation)

Mr. DÉCARIE: Yes, I am in agreement with you in this regard that the Post Office Department should be a Crown corporation by itself. This, however, does not prevent the public from having good service even though this would be a Crown corporation, that is a Government corporation. It does not prevent us from giving good service to the public. The CBC for instance, or the CNR, these are Crown corporations, and by legislation, they have to give good service to the public. The CNR cannot remove service, so long as the Government does not say that it should remove it, because the public in that particular area has to be

served. The same thing is true of the Post Office Department. Now, of course, it is up to the administrators of the Post Office Department to find a way of organizing the Crown corporation in this regard, but even if we are a Crown corporation, it does not mean to say we are not going to give service. We have to give service, it is a public service and a service which the public awaits and expects. It is a public service just as any other public service, the buses or anything else in this regard. It is a service which has to be given to the public. We cannot say that we are not going to give them the service because we are a Crown corporation, we never thought of this.

(English)

Mr. WALKER: I think, sir, you have chosen a bad example when you mention the CBC, because if the CBC based its wages on the amount of profit it makes every year, we would have some pretty poorly paid employees in this country, and I think this is the point—

Mr. LEWIS: All poorly paid.

Mr. WALKER: All poorly paid. I think this is the point that Mr. Lewis was making.

(Translation)

Mr. DÉCARIE: Yes, I understood Mr. Lewis' question. It is not a matter of giving a service in a ratio to profit and loss, I am not an economist myself.

(English)

Mr. WALKER: Wages in relation to profit and loss.

(Translation)

Mr. DÉCARIE: Service has to be given at all costs and the public expects this. It is the public who is paying taxes and the public expects the government to give this service. The question is not one of profit and loss in this regard; if there is no profit, there will not be any wages and no service. If there is no profit, the service has to be given just the same, but the employees also have to be treated in a normal way, that is the question.

(English)

The JOINT CHAIRMAN: (Mr. Richard): Mr. Lewis do you have any other questions?

Mr. LEWIS: No.

The JOINT CHAIRMAN (Mr. Richard): Mr. Walker?

Mr. WALKER: If I could just carry on; I agree with so much of what is in the Montpetit Report. If it had come out three or four years ago would the association you represent have had a different view on the legislation that we are putting forward now? You do not feel then that the working conditions that undoubtedly have to be better in the postal service and the working conditions that are recommended here can be obtained through the present legislation that we are talking about?

(Translation)

Mr. DÉCARIE: If we can sit down and negotiate these things, there is nothing in Bill C-170 that does not say we cannot negotiate our working conditions and

wages. These things can be negotiated under the Bill C-170. I think that once for all we can sit down around the bargaining table, discuss working conditions with our employer, these working conditions have been abandoned more or less in the past few years. Postal officers thought they were infallible in everything and we could not discuss. Now, with the Montpetit Report which came out only last Thursday, there is a complete change in attitude since last Thursday until today, and it will continue between the high postal officials and the Postal Workers Union. It was necessary for Judge Montpetit to go across the country to see the facts and put them down in writing. Now; the changes are coming. Changes certainly will come even more with negotiation, but I think that whether it is under Bill C-170 or otherwise, changes will come in working conditions. The Montpetit report has nothing to do with Bill C-170 of course but we will be able to negotiate an agreement, and will be able to put in black and white what our working conditions are going to be that is what we cannot do at the present time.

(English)

Mr. WALKER: You used the word "employer". I was wondering if you feel that your employer is the government, or, in fact, the public of Canada?

(Translation)

Mr. DÉCARIE: Yes, we think that our employer when we mention employer I mention the government, but every time I mention the government I have always said the public because the government would not be there if there were no public. As I was saying, we have to give the service to the public. The public is the one paying the taxes, the public is the one forming the government, and in one sense it is our employer too.

(English)

Mr. WALKER: May I just ask one other question? When we think in terms of huge industries and large businesses I agree with some of your remarks, and I am wondering if you do not always end up, in these negotiations, or in any wage dispute, or in other policies, with the little guy getting hurt.

However, in the industrial and big business area I take it you thoroughly disapprove of the principle of monopolies, because it gives them an added weight, particularly if, as a monopoly, it produces a stranglehold and an unfair advantage in bargaining. Do you agree with this, talking about big business—any monopolistic group in this country that has control of a sector of our economy? Do you think this is good for the country?

(Translation)

Mr. DÉCARIE: I believe that it is not too good for any country for monopolies to exist and control prices. It is a question which is a little bit outside my sphere of competence, I am not an economist, far from it, but so long as there are monopolies and so long as monopolies have the freedom to act as they wish, it will always be something very bad for any country in the world, Canada, the United States or any other country, because a monopoly controls everything. It even winds up controlling the employees, even the good things put on the market, these are detestable things and should not exist at all.

(English)

Mr. WALKER: Can we turn this around the other way? Can we talk about the monopoly of a vital national service? My next question will tell you why I am asking it. Let us take the monopoly of a postal service, for instance. This is one of our problems when we are taking into account the interests of a third party, namely, the public, in this whole question of what could be considered a vital national service. The problem that we find is that, in fact, we do have a monopoly on this one service. Who else will deliver the mail except those who, in fact, have the monopoly on this very important service that is being given across Canada?

The reason I am mentioning this point is because it seems to me that not only you, but other witnesses who have been here, in discussing Bill No. C-170 have put forward the proposition that this is simply a contest of power between employees and an employer, and I do not think that we can leave it in that narrow context when we are dealing with a vital national service, and particularly when one of the parties, in fact, enjoys a monopoly.

Do you see negotiations as strictly a contest of power between two people, employer and employee, or is there not a third party interest that must become part of the thinking, particularly of the people who have the monopoly?

(Translation)

Mr. DÉCARIE: What is happening at the present time—to speak only of the Post Office Department—is that, as you have to admit, the Post Office Department is a monopoly. It cannot be otherwise. It cannot be otherwise for the Post Office Department to be controlled solely by the Government because it is a public service. If the Post Office Department was not a monopoly, if it was controlled by a private enterprise, what would happen is that private enterprise would not give the service that we give, that the Government can give to the public. Private enterprise could cut off service anywhere if it were not profitable for instance. Even if we say that the Post Office Department is a monopoly, it is not a monopoly in the sense of a monopoly in private enterprise. Private enterprise will sell merchandise but the public does not have to buy these goods. It can monopolize the goods, but if the public does not buy, it has to change its prices. On the other hand the Post Office Department, or Customs, or any other agency of the Government, must be at the disposal of the public, all the time.

It is not a monopoly, I would not call it a monopoly. They have a monopoly over the distribution of the mail service, but it stops there, because the public of Canada, all workers in Canada, must pay if there are deficits, so that we can give this service, whereas if there is a deficit in a private company, it is not the entire population that pays for the deficit of the company. We say that it is a monopoly because they are the only ones who control the mails, but it is not a monopoly like we have for the Combines Act for instance, it does not apply at all. It is certain that for the time being right now, there is a struggle for power between the Central Government and the unions, and the public is in the middle. The public expects to have the service, but the employee must be dealt with fairly in order to give the service. Because he is dedicated to his work, and must give this service, it is no reason for the Government, which makes

legislation so that private industry will treat its employees right, not to do so as well in the case of its own people.

(English)

Mr. WALKER: Do you feel that, in the past, governments, through various agencies—Treasury Board and so on—have largely taken advantage of the sense of responsibility that the people you represent have had to the public to provide a service? Do you feel that advantage has been taken of this sense of responsibility and that this report may help correct—

(Translation)

Mr. DÉCARIE: Yes I believe that Treasury Board has taken advantage of the conscientiousness of the public service. It is true that we say that a government employee has security of tenure of office, but on the other hand, this employee has to live too, he has to be well treated and I think that the Montpetit report will bring a great deal of enlightenment in this regard. It will open the eyes of a great many people who did not know what was going on in the Post Office Department. The letter carrier for instance who meets about 3½ million people per day will not speak against his service. He meets the public, he is in a good mood, he smiles and the public does not know what is going on. Once he gets into the Post Office they are not aware. The Montpetit report published in the press will open the eyes of the public on what is going on at the Post Office at the present time.

(English)

Mr. WALKER: I have just one other point. I started by saying that I agreed with a lot of the recommendations in the Montpetit report, not the least of which is the recommendation I think that, you should try Bill No. C-170 and go along with the legislation.

(Translation)

Mr. RICARD: Mr. Décarie, you mentioned during your remarks a little while ago that you were completely in agreement with Judge Montpetit to the effect that the postal service become a Crown Corporation. You also mentioned that you would have better chances of obtaining better working conditions and in particular better wages. Would you say, Mr. Décarie, that by becoming a Crown Corporation, the Post Office Department would, from a deficit position, be the beneficiary?

Mr. DÉCARIE: I do not know whether in the near future the Government, the Post Office Department would make money, but I am certain that if the Post Office Department were a Crown Corporation it would have a great deal more freedom to administer itself. It is subject to a budget, limited by the Treasury Board, it is subject to the Department of Public Works for all its buildings and equipment, it is subject to the Civil Service Commission to hire employees and I am certain that if the Post Office Department were a Crown Corporation under its own responsibilities, it would make money in spite of the fact that it is a government department, I am certain that financially it would be much better off. The service would be greatly improved. The employee would negotiate directly with the Deputy Minister or the Postmaster General, I do not know

how he would be called, but there would be much closer contact than between the employer and the employee in that case, and this would apply to everyone.

Mr. RICARD: You also think, Mr. Décarie, that the efficiency of your Department if it became a Crown Corporation would also be improved?

Mr. DÉCARIE: The efficiency would be greatly improved.

Mr. RICARD: At the present time do you feel in the present conditions, that you could improve the efficiency of your Department?

Mr. DÉCARIE: Under present conditions it is very difficult to improve them.

Mr. RICARD: Why?

Mr. DÉCARIE: As I said a little while ago if you want to improve the service, for instance, if you want to give service to a particular city, we cannot do so until Treasury Board gives us permission to do so. The Postmaster General is only the representative of the Post Office in Parliament.

Mr. RICARD: You say that they have to ask for permission from Treasury Board. Is it not simply a matter of time and are you of the opinion that because of these time limits you cannot give the efficiency that you would like to give?

Mr. DÉCARIE: It is not only a question of time limits, it is complete refusal on the part of the Treasury Board to give service to such and such a city, even if we want to hire an additional truck to give service to companies. This is not approved by Treasury Board, if we want to buy a pencil in the Post Office Department, Treasury Board has to approve it.

Mr. RICARD: In other words we give you responsibilities and not enough authority.

Mr. DÉCARIE: They do not have either sufficient responsibility or authority.

The Joint CHAIRMAN (*Mr. Richard*): Any other questions.

(*English*)

Mr. WALKER: I would like to just clear up this point if I may? I am sure you are not suggesting, Mr. Décarie, that those small items go before the Treasury Board. Surely these are included in departmental estimates. There may be matters of policy on capital expenditure, with regard to—whether we can build 50 new post offices across the country, but not these minor items. These are things which appear in normal estimates.

(*Translation*)

Mr. DÉCARIE: When I spoke of pencils, perhaps it is a very small item, but to give you an example—for instance, if during the year they are going to allow a certain sum of money to do a certain thing and if the budget is spent within six months then they cannot do the rest before waiting for the budget for another year, they cannot take it upon themselves to spend any money. It always has to be approved by Treasury Board because they are on a budget. Now, if the Post Office Department would administer itself financially, then it could provide much better and much more. All post offices for instance. If the Post Office Department wants a post office building of such and such a size, to have so many clerks and so many letter carriers and expects that in ten years

the space will have to be doubled, this is refused completely by Treasury Board most of the time. They have to build others and it costs much more. It is not bad administration because the Post Office Department cannot administer itself in this regard, but it becomes bad administration on the whole.

(English)

Mr. BELL (*Carleton*): Just one further point, Mr. Décarie. In your original brief I thought one of the most substantial points was the suggestion that there should be incorporated in Bill No. C-170 something equivalent to Section 8 of the I.R.D.I. Act, which section provides for separate certification of a group of employees who belong to a craft, or those having special skills. I am not sure that I am quite clear about the impact in the post office of putting such a section in this bill.

As you now see Bill No. C-170, it would probably require you to have a council of employees representing the railway mail clerks, the letter carriers and the inside operating staff, who are represented in the Canadian Union of Postal Workers; whereas, if you put section 8, or its equivalent, into this bill you would be entitled to separate certification, as a matter of right.

(Translation)

Mr. DÉCARIE: We want this certification among the letter carriers as described by Section 8 of the I.R.D.I. Act for the simple reason that the letter carrier who does work compared to that of no one else, should be enabled to negotiate everything he wants, everything he is demanding. We cannot compare the work of the letter carrier with any other work done in the Post Office Department or elsewhere. That is why we are asking for certification of the letter carriers' union alone rather than being forced to ask for certification by a council.

(English)

Mr. BELL (*Carleton*): As you interpret Bill No. C-170 now you would not be entitled to such separate certification?

(Translation)

Mr. DÉCARIE: Under Bill C-170 certification should be given only to those who handle mail, that is, the clerks the letter carriers and the mail handlers, one group.

Mr. LEWIS: A Council of the organization?

Mr. DÉCARIE: A council of the organizations, yes, who would negotiate within a council. We do not want this, because I think even the postal workers have asked for individual certification, because when you go to negotiate we will be submerged, we will be subject to demands. The agreement for instance, which would cover letter carriers and postal workers would certainly bring on a great deal of confusion.

(English)

Mr. LEWIS: I know I have asked Mr. Décarie questions, but may I follow this up, because I am a little concerned about the proposal of both unions?

What is the real harm in having a council of the three unions, with representatives from each of the unions on it, negotiating for all the employees of the post office at the same time?

(Translation)

Mr. DÉCARIE: The objection that we have to a council of unions to negotiate is that the work of the letter carrier and the work of inside employees is completely different.

(English)

Mr. LEWIS: That is not new, Mr. Décarie. If you take anything you like, say a steel mill, you will have one union negotiating, but you will have in the mill tool and die makers; rollermen working the rollers; semi-skilled people; you have storekeepers and you have unskilled labourers. But that does not prevent the bargaining agent from being able to bargain for each one of those classifications.

In some of the industries they have developed special arrangements to deal with the skilled people.

What I am concerned about, Mr. Décarie, is this: Is there not an advantage to the employees to bargain together at the same time with the full strength of the entire work force, protecting the interests of each group while you are bargaining, rather than have you bargain one day and reach an agreement and the other union has not yet reached an agreement; and if you decide to go the road of strike, you settle yours—you have your agreement—and as has just happened in the city of Toronto with the outside and inside workers, two weeks later the other union is unable to reach a settlement, and it goes on strike? You then have to decide whether or not you will obey their picket lines, since you have already made a settlement.

Is there not a great deal of advantage for the employees? Never mind the employer. I always see advantage for the employer if the work force is divided into separate bargaining units. The stronger bargaining unit gets something, and the weaker one gets less. Would there not be an advantage to your own people to have one bargaining unit, with the three unions represented in the bargaining? Are you not stronger that way?

(Translation)

Mr. DÉCARIE: You know, Mr. Lewis, that the Post Office Department operates from Newfoundland to Vancouver.

Mr. LEWIS: That I understand.

Mr. DÉCARIE: It is a very complicated thing. But we are ready to negotiate under both forms. We are asking for separate certification, but if the bill forces us to negotiate within a council, we will be ready to do so. We have already set up a joint action committee, and when the time comes to negotiate, in spite of the fact that we are asking for separate certification, we will be ready to negotiate within a council too. We are ready for any eventuality.

Mr. LEWIS: I see advantages there.

(English)

Mr. LEWIS: Let me take, as an example, the non-operating railway unions. They are separate certifications. For many years they had a joint negotiating

committee. This year they decided—and I am sure for good reasons, in their minds—not to have a joint negotiating committee, and they negotiated in four separate sets of negotiations. When it came to the wire, at the end, they had to get together again. They separated during negotiations, but when they came to see the government and the bill went before Parliament, they again had to meet almost as one committee.

Because you make so much of that point I would like to suggest, with great respect, that it may be that it is your organizational traditions, rather than the objective advantages, that make you prefer to go separately as against in a council?

(Translation)

Mr. DÉCARIE: It may be a question of tradition to want to negotiate separately. Yes, I can see the advantage of negotiating as a council through the number of employees who would be represented on the council. We would all be represented by the same council, we mean 22,000 employees would be represented instead of, if we negotiate separately, 9,000 on one side and 11,000 on the other. But, by tradition, the letter carriers' union, which has existed for seventy-five years, has asked to negotiate separately. Now it is a question which we are studying at the present time between the two unions. It is a question which is under study, which was put under study, after representations on the part of the government because the committee was formed just recently.

(English)

Mr. LEWIS: You are not taking an unchangeable position.

Mr. DÉCARIE: No.

Mr. LEWIS: You are ready to work through a council, assuming the law is good enough.

(Translation)

Mr. DÉCARIE: Yes, that is it. We expect to negotiate separately or in a council. We are getting ready for both eventualities. Most likely, according to Bill C-170, we will probably have to negotiate, be forced to negotiate, within a council.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, Mr. Décarie.

The Order in Council with deference to Civil Service Regulations, requested by Mr. Chatterton, is in the hands of the Clerk.

It is now 11.45 a.m. and I do not think we should start with a new witness at this time. Mr. Heeney has to leave at 12.15.

Mr. A. D. P. Heeney (*Committee on Collective Bargaining*): Mr. Chairman, I could extend that time about an hour, if it would be of help to the Committee.

The JOINT-CHAIRMAN (*Mr. Richard*): Do members of the Committee wish to continue this morning?

Mr. BELL (*Carleton*): Some of us could not be here that long.

The JOINT CHAIRMAN (*Mr. Richard*): When would you be available again, Mr. Heeney?

Mr. HEENEY: Immediately after lunch, or about 2 o'clock.

The JOINT CHAIRMAN (*Mr. Richard*): Would the Committee prefer to wait until 4 o'clock this afternoon.

Mr. HEENEY: Do you wish me to start now?

The JOINT CHAIRMAN (*Mr. Richard*): No; I think we will wait until this afternoon at 4 o'clock.

(*Translation*)

The meeting has adjourned.

APPENDIX "M"

OCTOBER 20, 1966.

Special Joint Committee
of the Senate and House of
Commons on the Public Service,
Parliament Buildings,
Ottawa, Ontario

Gentlemen:

The Vancouver Board of Trade urges that Bill C-170, An Act Respecting Employer and Employee Relations in the Public Service of Canada, be abandoned. In support of this position the Board offers the following observations:

1. The government, through the Minister of Labour, has announced the establishment of a task force to examine labour management relations and labour legislation in Canada, with a view to making constructive recommendations within the next eighteen months. It would be unwise, if not incongruous, for the Federal Government to enact new and significant legislation affecting employees in the public service of Canada prior to receiving the comments and recommendations of the task force.
2. If passed, Bill C-170 inevitably would have the effect of having parliament itself established as a continuing adjudicator in labour disputes within the civil service. Such a situation could only lead to an exaggeration of political considerations and a frustration of the parliamentary process.
3. The Bill provides the right for civil servants to take legal strike action. We believe it to be a completely unsound principle that those engaged in the public service should have the legal right to take punitive action against the public itself. Disputes should be settled by final and binding arbitration.

Respectfully submitted,

Sydney W. Welsh
PRESIDENT

APPENDIX "N"

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

CHAIRMAN OF THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

OCTOBER 17th, 1966

Dear Mr. Bourget:

I understand that the Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service of Canada is about to consider in detail Bill C-182, an Act to amend the Financial Administration Act. I am writing to you, as Chairman of the Public Accounts Committee, to advise you of my serious concern about the provisions of Sections 11, 12 and 13 of the Bill, each of which affects the Office of the Auditor General.

I believe it to be fundamental that for effective Parliamentary control of public funds, it is absolutely essential that the integrity and independence of the Office of the Auditor General be zealously guarded. It is my view, and I am sure it is yours as well, that nothing must be permitted to exist which would have the effect of subjecting or appearing to subject the Auditor General to the direction or control of the Executive. He is the servant of Parliament.

In accordance with tradition and the law, all reports of the Auditor General, whether to Parliament, the Governor-in-Council or the Treasury Board, are made through the Minister of Finance. The Minister of Finance is the link between the Auditor General and those to whom his reports are required to be made. By reason of the provisions of Sections 11, 12 and 13 of Bill C-182, however, this link would be severed and the Auditor General would be brought into a direct relationship with the Governor-in-Council and the Treasury Board. Further, the right of the Minister of Finance to request information from the Auditor General is removed. This I consider is to be an encroachment on the independence of the Auditor General.

It is my understanding that one of the prime purposes of Bill C-182 is to consolidate in the Treasury Board the detail of expenditure of the public revenues authorized by Parliament. One of the prime functions of the Auditor General is to ascertain whether expenditure of the public revenues authorized by Parliament has been applied to the purposes for which it has been so authorized. The effect of Sections 11, 12 and 13 of Bill C-182 is to require the

Auditor General to report directly to those responsible for the acts into which it is the Auditor General's duty to inquire. The anomalous nature of such a situation is obvious. Indeed, such a situation defeats the very purpose for which the Office of the Auditor General exists.

Accordingly, I strongly urge that Sections 11, 12 and 13 of Bill C-182 be deleted and the relevant provisions of the Financial Administration Act be continued.

Yours sincerely,

Alfred D. Hales, M.P.
Chairman,
Public Accounts Committee.

cc. Mr. Jean T. Richard, Chairman, Special Joint Committee on Employer-Employee Relations in the Public Service of Canada, The House of Commons, Ottawa.

Mr. A. M. Henderson, Auditor General, Justice Bldg., Ottawa.

The Hon. Mitchell Sharp, Minister of Finance, Ottawa.

The Hon. Maurice Bourget, Chairman,
Special Joint Committee on Employer-Employee
Relations in the Public Service of Canada,
The Senate.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 14

THURSDAY, OCTOBER 27, 1966

Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Mr. W. Kay, National President, Canadian Union of Postal Workers;
Mr. R. Cook, National President, Canadian Merchant Service Guild;
Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective
Bargaining in the Public Service; Dr. G. F. Davidson, Secretary of
the Treasury Board.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	Mr. Leboe,
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Munro,
Mr. Deschatelets,	Mr. Crossman,	Mr. Ricard,
Mrs. Fergusson,	Mr. Émard,	Mr. Rochon,
Mr. MacKenzie,	Mr. Fairweather,	Mr. Simard,
Mr. O'Leary (<i>Antigonish-Guysborough</i>),	Mr. Hymmen,	Mr. Tardif,
	Mr. Isabelle,	Mrs. Wadds,
Mr. Hastings,	Mr. Keays,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Knowles,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, October 27, 1966.

(23)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.16 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Denis, Fergusson, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (Carleton), Berger, Chatterton, Emard, Fairweather, Hymmen, Knowles, Lewis, McCleave, Richard, Walker (11).

In attendance: Mr. W. Kay, National President, Canadian Union of Postal Workers; Mr. R. Cook, National President, Canadian Merchant Service Guild; Messrs. A. D. P. Heeney, Chairman, P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee questioned the representative of the Canadian Union of Postal Workers on the two briefs respecting Bills C-170 and C-181.

The Committee heard an oral presentation from the Canadian Merchant Service Guild re sections 26, 68(b), 70(3) and 86(3) of Bill C-170 and questioned the representative thereon.

A request was made by Mr. Lewis that the Subcommittee on Agenda and Procedure consider the feasibility of having the Chief of the Bureau of Classification Review of the Civil Service Commission appear before the Committee to explain the criteria, procedures and functions of the review programme, particularly as it affects certain portions of the bills under consideration.

The Committee questioned the representatives of the Preparatory Committee on Collective Bargaining in the Public Service.

At 12.51 p.m., the meeting was adjourned to 4.00 p.m. this same day.

AFTERNOON SITTING

(24)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 4.06 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Cameron, Denis, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatterton, Chatwood, Emard, Hymmen, Knowles, Lewis, McCleave, Richard, Walker (11).

In attendance: Messrs. A. D. P. Heeney, Chairman, P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee resumed the questioning of the representatives of the Preparatory Committee on Collective Bargaining in the Public Service.

At 5.31 p.m., the questioning of the witnesses concluded, the meeting was adjourned to 8.00 p.m. this same day.

EVENING SITTING

(25)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met at 8.14 p.m. this day, the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Cameron, Denis, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Emard, Hymmen, Knowles, Lewis, Richard, Walker (9).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee questioned the representatives of the Treasury Board on various aspects of Bills C-170, C-181 and C-182.

Moved by Mr. Knowles, seconded by Mr. Emard,

That the Speakers of the two Houses of Parliament be asked to make provision for the Law Clerks of the two Houses to appear before this Committee, at an appropriate time, to discuss the constitutional questions involved in extending collective bargaining for the employees of the Senate and the House of Commons. Motion agreed to on division.

At 9.53 p.m., the questioning of the witnesses terminating, the meeting was adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 27, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we have with us this morning the Canadian Union of Postal Workers, represented by their President, Mr. Kay. Come forward, Mr. Kay, please.

Mr. Lewis, you asked to have the opportunity to start the questioning this morning.

Mr. LEWIS: No, that was the other day with Mr. Heeney but I will start if you like.

The question I would like to ask you, Mr. Kay, with the Chairman's permission, is whether you have had time to read the Montpetit report?

Mr. W. KAY (*President, Canadian Union of Postal Workers*): Yes, I have, Mr. Lewis; I read it through, but we are giving it a close analysis right at the present time.

Mr. LEWIS: Without going into the criticisms he makes of conditions of work, and for the moment dealing with collective bargaining, he suggests that you ought to try to give Bill C-170 a chance, although he also expresses some sympathy for your request that there be a Crown corporation established for the post office. What is your position on those suggestions of the judge?

Mr. KAY: We do not accept the suggestion that we accept the provisions of Bill No. C-170. We do support the principle of, or considering a feasibility study of, making the Post Office Department a Crown corporation. The main reason we would support the principle for the post office becoming a Crown corporation is because it would place us under the Industrial Relations and Disputes Investigation Act and would exclude us, of course, from Bill No. C-170.

Mr. LEWIS: Aside from your desire to be excluded from Bill No. C-170, what advantages do you see in being under the Industrial Relations and Disputes Investigation Act?

Mr. KAY: We would come under a statute which has been tried and tested, and, although it does have some shortcomings, nonetheless it has been acceptable to the trade union movement in general. It is not as complicated a piece of legislation as Bill No. C-170. We think we could operate very, very well under the Industrial Relations and Disputes Investigation Act, and we do not think that Bill No. C-170 would give us the necessary machinery for collective bargaining.

Mr. LEWIS: Do you take that position for the whole of the public service, or can you indicate particular characteristics of the situation in the post office which make the regular labour relations act applicable to you even though it may not be applicable to the rest of the public service?

Mr. KAY: No, we do not state that the whole Civil Service should come under the industrial relations act, although we would like to see this. Nonetheless, the civil servants have indicated, by their choice of associations and their instructions to their association leaders, that they want some form of compulsory arbitration.

We, the postal workers, would not want to impose a system of collective bargaining upon civil servants—a system that was not desirable to them.

Postal workers, however, form a unique group. They are more akin to an industrial organization. Its workers look upon themselves as industrial workers. They want full and free collective bargaining under the Industrial Relations and Disputes Investigation Act for themselves, but they do not want to impose it on the remainder of the civil service, if the civil service does not want it.

Mr. LEWIS: I asked Mr. Decarie this question the other day and he did not have full information. You may not have it either. I would be very interested to know the breakdown in the post office. There is your union, which covers what I would call the inside workers, as a brief description. That is right, is it not?

Mr. KAY: Yes. That is right.

Mr. LEWIS: Then there is the union representing the letter carriers. Where do the railway mail clerks fit in? Do they have their own organization, or are they part of the letter carriers, or your organization?

Mr. KAY: They have their own organization but there are only about 350 operative railway mail clerks left.

Mr. LEWIS: What is their organization called?

Mr. KAY: It is called the Canadian Railway Mail Clerks Federation.

Mr. LEWIS: There are these three. Among them, what proportion of the work force in the Post Office Department would they represent—the three existing organizations?

Mr. KAY: The over-all percentage?

Mr. LEWIS: Yes? Have you any idea?

Mr. KAY: The non-supervisory staff, I would estimate, between 90 and 95 per cent.

Mr. LEWIS: What would be left? How many non-supervisory people would there be left outside these three organizations? I am thinking of stenographers, telephone operators and secretaries. There must be quite a number of that kind of employee. They are not part of the inside workers. They do not belong to your organization?

Mr. KAY: The ones that work in the post office do belong to our organization. We have the majority of them organized into our union. As long as they work in the post office on the inside staff, whether they are the telephone operators, maintenance craftsmen, or clerks, we organize them into our union.

Mr. LEWIS: Then you, in fact, represent all the inside employees?

Mr. KAY: Yes.

Mr. LEWIS: Not only those employees directly dealing with mail, but also all the maintenance and clerical people as well.

Mr. KAY: The ones that work in the post office, yes; except for a few that are not organized or may perhaps be organized in some other civil service association.

Mr. LEWIS: Have you any idea whether there are some? I am trying to discover if there is any overlapping between your organization and the others.

Mr. KAY: I understand the Civil Service Association of Canada has a few of the clerical people in the Post Office Department.

Mr. LEWIS: To get back to the collective bargaining machinery, have you given any thought to the post office being declared a separate employer under, I think it is, schedule 2 of the act?

Mr. KAY: Yes. I may be wrong in this, not being of a legal mind, but I would assume that if the Post Office Department became a separate employer we would still have to come under the provisions of the legislation under Bill No. C-170.

Mr. LEWIS: I think that is right.

Mr. KAY: This would not satisfy our purposes.

Mr. LEWIS: Really the only thing that would satisfy you is establishing the Post Office Department as a Crown corporation?

Mr. KAY: Yes, Mr. Lewis; either that, or, if it is not immediately possible, we are of the opinion that amendments could be made to section 54 and section 55 of the Industrial Relations and Disputes Investigation Act to place postal workers under that Act.

Mr. LEWIS: You mean you would amend it so as to take one department of government out and put that as a department, not as a Crown corporation but as a department, under the other act.

Mr. KAY: Yes; and if it cannot be done that way then, of course, make it a Crown corporation and it would come under that Act.

Mr. LEWIS: My final question on this—and I am not trying to argue with you, I am trying to find out what your thoughts are—is this. It is no mystery to the members of the committee that some of us think that Bill No. C-170 is very deficient as a collective bargaining bill.

Suppose we did succeed in persuading the powers-that-be to make it a genuine collective bargaining bill, would you still hold the opinion which you do? Suppose, in other words, that the limitations on the field of bargaining are removed and some of the other, in my view, undesirable features of the bill are removed and replaced by what I would call more genuine collective bargaining on all the matters affecting the employees in the entire public service, would you still object to being under Bill No. C-170?

Mr. KAY: If it paralleled exactly the Industrial Relation and Disputes Investigation Act there would be no purpose in having two acts for collective bargaining. If it was the same in every respect as the I.R.D.I. Act it certainly would be acceptable.

Mr. LEWIS: I think that is perhaps going a little too far. I am not sure it can be made exactly the same. However, I think, if the government were willing to accept suggestions, you could have a genuine collective bargaining regime under Bill No. C-170, including the two choices of either conciliation and the right to strike or arbitration made at the proper time and not at the time which the bill says it should be made—made at the time you reach an impasse. If that kind of

change were made would you still feel strongly about being a separate Crown corporation?

Mr. KAY: Yes, we would, because our activities would be inhibited by the remainder of the civil service who would opt for compulsory arbitration. Any time the postal workers would go after certain benefits, or wage increases, there would always be the tendency to say, "Well, the people under the same legislation as yourselves have obtained so much," and because we have opted for conciliation the government would tend to restrain us more to conform with the rest of the civil service. We feel that if we came under the I.R.D.I. Act it would separate us from the remainder of the civil service, because we are unique, I think, in this respect.

Mr. LEWIS: In short, you do not think you are civil servants at all?

Mr. KAY: No.

Mr. FAIRWEATHER: I am not discussing the merits of the I.R.D.I. Act, or Bill No. C-170, but I am interested in your plea that you are unique. I have not been provided with any information about why you are unique? Presumably, everybody on the face of the earth is unique. Why are you unique?

Mr. KAY: I think Judge Montpetit explained it quite adequately in his report, but I could say this, that the Post Office Department is just like an industrial organization. It operates seven days a week, all statutory holidays, 365 days a year. Its employees tend to be used as they would be in some industries. They are not like, say, the clerical grades in the other government departments, who might have a 37½ hour week, and whose shifts are fixed day shifts, and so on. This tends to make the postal worker a little different from the remainder of the service.

Mr. FAIRWEATHER: You have the normal protection of specific working hours per week, do you not?

Mr. KAY: Yes, we have that protection all right, but we have to work various shifts. They start any time of the day or night.

Mr. FAIRWEATHER: That is all.

The JOINT CHAIRMAN (*Mr. Richard*): Senator MacKenzie?

Senator MACKENZIE: Mr. Chairman, I was interested in the witness' statement that the post office is, to all intents and purposes, an industrial operation comparable to other industries and for that reason should come under the Industrial Relations and Dispute Investigation Act. I realize that collective bargaining exists to enable the members of unions—workers generally—to improve their conditions of labour and to increase their income. I am all for it and I am interested in it. But industry, as I understand it, exists, in the main, to make a profit and to serve a limited section of the community. Now, to the best of my knowledge public service, in whatever area you examine, does not exist to make profits. It operates at cost. It does not produce dividends or profits for any group of directors or shareholders or what you will.

There is that definite difference between the public services, including the postal workers, and practically any industrial operation. There may be some industries, although I must confess I cannot think of any at the moment, which serve the whole community and serve it in the kind of more or less essential

way that the postal services do, but, again, I am inclined to feel that because, as far as I can judge, you and the other men and women are members of what amount to government services for the whole community, you should achieve the measure of protection and ability to bargain collectively in somewhat different ways than the coal mining industry, or the forestry industries, or what you will.

This is an opinion, sir. As a matter of fact, I think there is a difference, and I think it has to be recognized that if we are to achieve, in this country of ours, decent conditions for members of government services, including adequate income and, at the same time, maintain the services that are so important and so essential, you can not put them on the same basis as the coal mining industry, or the forest products industry.

The JOINT CHAIRMAN (*Mr. Richard*): Is that a question?

Senator MACKENZIE: It is a comment, sir.

Mr. KAY: I will admit that the post office provides an essential service, the same as the railways provide a very essential service for the country, as a whole. The postal workers do not look at themselves as anything different from a service industry such as the railways, or the C.B.C., or Polymer Corporation, or any other government crown corporation, who come under the I.R.D.I. Act.

Senator MACKENZIE: The railways are a fairly good comparison. They have posed, as you know, over the years this same problem that I am raising with you. The C.B.C. is in a somewhat more questionable area. Some people—and I am not suggesting that I am one of them—can get along without the C.B.C., and certainly many of us could get along without Polymer. I think I know why the C.B.C. was organized as it is. Polymer is a holdover from the war. Therefore, they are not good illustrations. The railways, yes. However, I am not concerned with arguing this point at all, I just wanted to make it.

Mr. BELL (*Carleton*): Mr. Chairman, I would like to direct some questions to the witness.

As I understand it, the Canadian Union of Postal Workers does uphold the merit system?

Mr. KAY: Yes, we do; although we see many shortcomings in the application of the merit system.

Mr. BELL (*Carleton*): If the merit system is to be applied throughout the public service would it not be necessary to have some amendments to the I.R.D.I. Act, in order to preserve the merit system?

Mr. KAY: I think the merit system could be preserved by negotiating a system of promotions in the civil service. I do not think that the unions should enter into initial appointments into the service, but the matter of promotions, once they are in the government service, could be something that could be worked out between the unions and the departments and still preserve the merit system.

Mr. BELL (*Carleton*): You would say, then, that the matter of appointments should be removed from the area of negotiation.

Mr. KAY: The initial appointments.

Mr. BELL (*Carleton*): The initial appointments; but that promotion might properly be a matter for the collective bargaining agreement.

Does that lead you to what, in one of your briefs, you spoke of as the establishment of a multiplicity of definitions of the merit principle?

Mr. KAY: I would assume that there is a multiplicity of the applications of the merit principle now, and making it negotiable would not add to any multiplicity that exists now.

Mr. BELL (*Carleton*): Did I understand what I shall call your pink brief correctly, that you took exception to the delegation to deputy heads of the power of appointment in certain areas.

Mr. KAY: Yes.

Mr. BELL (*Carleton*): As I understood from that, you said that this would lead to a multiplicity of definitions of the merit principle, and I understood you to believe that that was bad. In other words, if different deputy heads construed the merit system differently, it was bad.

Mr. KAY: That is quite true.

Mr. BELL (*Carleton*): Now, what difference is there between a multiplicity of definition of the merit system by deputy heads and by a whole series of collective bargaining agreements?

Mr. KAY: The system that would be worked out by negotiating the merit principle would be acceptable to the people, because their unions would negotiate something for them in that respect—something that would be acceptable; whereas, under bill No. C-181, the employees themselves would have no say in the application of the merit principle.

Mr. BELL (*Carleton*): Mr. Kay, I want to go as far as I can with you in your presentation, but you have made this a little difficult for me. I am a believer, outright and complete, in the merit system. You indicate that perhaps merit should be differently defined in the Post Office than it is in the Printing Bureau, and differently in the Printing Bureau than it is in the Department of Agriculture on the Experimental Farm, and differently on the Experimental Farm from the laboratories and the furnace rooms of the Department of Mines. I have difficulty in understanding how you can have four or forty different definitions of merit.

Mr. LEWIS: Mr. Chairman, if Mr. Bell will forgive me, I am not entering into an argument, but it would help me, as well as the witness, if I could follow the question. The merit system is a general principle. The application of it in a given department or in a given area, will necessarily depend on the relationship of occupations and the availability for transfer, the interchange of skills, and all the rest of it. You have the merit principle as a general principle all over, but is it not a fact that in the application of it you have to make different definitions in each department.

I am trying to understand what your question is.

Mr. BELL (*Carleton*): I am attempting to use, as closely as I can, the initial language used by Mr. Kay where he took exception to the establishment of a multiplicity of definitions of the merit principle, in his original brief.

Mr. LEWIS: In his department.

Mr. BELL (*Carleton*): No, no; across the service—the multiplicity because of delegation to various deputy heads. If you can have such a multiplicity—I am using his own language in relation to this—arising out of that, and it is bad in those circumstances, then do you have the multiplicity equally bad arising out of a number of collective bargaining agreements?

Mr. KAY: Arising out of collective bargaining agreements would be more acceptable to the staff than an imposed merit system by legislation.

Mr. BELL (*Carleton*): Therefore, if the persons who are affected by any deviation from a single standard agree to that deviation there could be no objection?

Mr. KAY: No.

Mr. BELL (*Carleton*): But you would not carry that principle at all into the question of appointment?

Mr. KAY: It would not work.

Mr. BELL (*Carleton*): Appointments would be non-negotiable?

Mr. KAY: Non-negotiable, yes.

Mr. BELL (*Carleton*): Would you agree that, because appointments must be non-negotiable, an amendment to the I.R.D.I. Act would be required?

Mr. KAY: I would not know the answer to that one.

Mr. BELL (*Carleton*): I will pass to someone else.

Mr. McCLEAVE: I want to put one question to the witness, Mr. Chairman, and to lay a very brief foundation. Every job, occupation, profession, or walk in life, has its attractions and also its disadvantages which, I think, should be seen by anybody who goes into that particular job. We have talked about third interests here, that is, the interest of the public at large, in the continuing postal service.

Is it not your opinion that a person entering the postal service should recognize that he should not have the right to withhold his services; that there may come times when he might want to better his pay but that he should not be allowed to disrupt the public service? Should this not be recognized by people, with their eyes wide open, when they enter the postal service? This is the point I am trying to make.

Mr. KAY: No; we think that the postal workers should be entitled to the same rights as any other workers in the country. They go to work in the post office, but we do not think that this is a service where the security of the state might be involved, as an example, where they would have to forego the right to take industrial action, or to strike, if you wish.

Mr. McCLEAVE: You do not grant any exception to the public interest in this case?

Mr. KAY: Not in the case of the postal workers.

Senator MACKENZIE: On this particular point that Mr. McCleave has raised—and I ask this as a question—is it an accurate statement that the postal workers have, in a sense, a guarantee of continuity of employment throughout the year and over the years?

Mr. KAY: There is no guarantee, senator.

Senator MACKENZIE: I mean as long as the postal service is in operation and the members of the services are not under some disability they would have employment. I mean, it is not an in-and-out operation—

Mr. KAY: The security of tenure is not what it used to be at one time.

Senator MACKENZIE: I am not thinking so much of security of tenure as of continuity of work.

Mr. KAY: I am afraid I do not get the question, then.

Senator MACKENZIE: If you are appointed to the postal service you expect that you will continue to be employed and be paid whatever the rate is. The work is there and it is not seasonal, and there are no lay-offs. In this sense, again, it does tend to differ from many industries that I know in the community. The layoff is very much a matter of management, is it not?

Mr. LEWIS: Unless automation is on the way.

Senator MACKENZIE: Automation is another one, and that one is a tough one. Will it come?

Mr. LEWIS: I imagine so, in some form.

Senator MACKENZIE: It will come in the post offices, too, or at least, in my opinion it should.

The JOINT CHAIRMAN (*Mr. Richard*): Could we hear Mr. Kay now?

Mr. KAY: I agree that it is a continuing operation and that it is not something seasonal or something temporary, but there are many similar industries in Canada, which operate continually, and there is no question of layoff except as the result of automation being introduced. I do not think the post office is any different from them.

Senator MACKENZIE: There are some, however, which are very much in-and-out.

Mr. KAY: Oh, yes.

Mr. HYMMEN: Mr. Chairman, I would refer to the answer that Mr. Kay gave to a question by Mr. Lewis. He said that he did not consider postal workers collectively as civil servants. I think this is elementary. An underlying theme in this whole consideration, and one which I think the Civil Service Alliance are very much concerned about, is the public interest. Since, as a postal worker, your ultimate employers are the people of Canada, through parliament and the government of the day, I do not follow your argument that you are not a civil servant.

I have not got to the question yet. I know there is this whole question of the two courses of action, arbitration or the right to strike. You admitted a few minutes ago that the postal service was an essential service even though Bill No. C-170 defines security and safety as two matters of concern in this whole

matter. I believe I asked Mr. Jodoin, when he was here a day or so ago, this very same question; if, in the public interest, eventually—and it always seems to be yesterday that this has to be done and I am quite sure that parliament and the government of the day does not want to take the action—it is necessary to terminate a strike when it is called—and I think it has been mentioned publicly many times that there must be a better way to solve difficulties in private industry and also in the public service than by the strike—do you not think that the strike provision, even though it is allowed, and the postal workers, either at the time of certification or at the opportune time, decide to strike—do you not think, taking everything into consideration, that, in lieu of the public interest and actually involving the people from one end of this country to the other, as I said the other day that this whole provision, which has been involved in collective bargaining over many, many years, is a farce if the government is going to step in and terminate this in a matter of time anyway?

Mr. KAY: I think initially collective bargaining should be free, even where both sides meet from equal strength at the bargaining table, and I should say at this time also that if postal workers came under the I.R.D.I. Act it does not mean to say that they would just walk off the job or strike any time that they could not reach agreement with the employer. I do not imply that at all. But, if negotiations should break down and the employees go on strike, this would be the time for parliament, I think, to initiate some type of legislation to terminate the strike. But to pass legislation prohibiting the right to strike makes a farce of collective bargaining itself.

Mr. KNOWLES: I have two or three questions, Mr. Chairman, and may I intersperse a comment or two on Senator MacKenzie's remarks?

First, let me follow up Mr. Énard's questioning. Mr. Kay, when you say that as postal workers you feel yourselves to be different from other civil servants, you are not implying by that that post office work is not an essential public service?

Mr. KAY: No, I am not.

Mr. KNOWLES: You would agree, however, that there are kinds of employment outside of government employment, which also provide essential public service.

Mr. KAY: That is right.

Mr. KNOWLES: And you are asking to be assimilated to such kinds of employment for the purposes of collective bargaining?

Mr. KAY: That is right, yes.

Mr. KNOWLES: I have a comment on something Senator MacKenzie said, which may put me down as a queer animal, but perhaps I have that reputation already. Senator MacKenzie did not agree with your comparing your work with Polymer or the C.B.C. He accepted the comparison with the railway services.

Senator MacKenzie said with respect to the C.B.C. that some of us could live without it. Maybe it is the wrong thing to say in the context of what was said today but, I do not think Canada could get along without the C.B.C. I think it is—

Senator MACKENZIE: I think that as a general statement of policy and philosophy I would agree with that, Mr. Chairman.

Mr. KNOWLES: I might say, Mr. Chairman, if it is not irrelevant, that my point is that there are these kinds of services which need change and need to be improved, but nevertheless are essential to the people of Canada.

If the railways can operate as a separate employer, whether public or private, and if the C.B.C. can operate as a separate employer under collective bargaining—I am afraid I am putting words in Mr. Kay's mouth—then why should not the postal workers have the same right?

Mr. KAY: Well, sir, we think the postal workers should have the same right as a railway worker, the C.B.C. people, the woodworkers, boilermakers, or any other people. We should have the same right as they have. If the time should come when the postal worker decides to go on strike because he cannot reach agreement with his employer, and when the stage would be reached where it was absolutely imperative that the government terminate this strike, that would be the time to pass the legislation terminating the strike, and not before negotiations take place.

Mr. KNOWLES: If the government and Parliament take that kind of action it should be, with regard either to private or public employees, depending on the nature of the service.

Mr. KAY: Yes.

Mr. KNOWLES: So far, Mr. Kay, I have been asking questions which obviously suggest agreement between you and me. I now have a question on which you may not agree, and I am not arguing with you or trying to force you to change your position. I would like to get something clear for the purposes of this Committee. You have said, if I may try to boil down your position, that there are two things you want: One is a crown corporation and the other is to be under the I.R.D.I. Act rather than under Bill No. C-170.

May I ask this: Are you wedded absolutely to those two propositions, or would it be fair for some of us to say that what you really want, no matter how you get it, is genuine collective bargaining, and to be regarded as having an approach to your work different from that of the ordinary, classified civil servant?

Mr. KAY: We are wedded to the proposition that we come under the I.R.D.I. Act, and even if it is necessary to make the post office a crown corporation.

We are not wedded to the fact that the Post Office Department should, or might, become a crown corporation. We only say that if it is necessary to make the post office a crown corporation in order to give us the provisions which the I.R.D.I. Act gives, then, by all means, we support the principle of the post office becoming a crown corporation.

I have heard it stated that the post office would be more efficiently operated if it were a crown corporation, and other people say that it would not be. I am not prepared to argue the merits or the demerits of the proposition; but, postal workers generally support the principle of becoming a crown corporation because we would come under the I.R.D.I. Act.

Mr. KNOWLES: You recognize that there would be problems in terms of bookkeeping and accounting if the post office became a crown corporation? The whole capital structure would have to be looked at, and the profit-and-loss picture might be a big question mark.

Mr. KAY: Yes, we are aware of that. As a matter of fact, Mr. Justice Montpetit suggested a feasibility study of the proposition of making the post office a crown corporation. It is not an easy thing to do, and we realize that.

Mr. KNOWLES: All right, Mr. Kay. I do not want to suggest that I am causing you to modify the position in your brief at all, but I think you have made this point clear, that you are not wedded to the crown corporation idea, as such, but rather you put it forward as a means of coming under the I.R.D.I. Act rather than under Bill No. C-170. That is your basic desire, namely, to be under the I.R.D.I. Act rather than under Bill No. C-170?

Mr. KAY: Yes.

Mr. KNOWLES: I am not going to go any further in trying to get you to modify your position, but you will appreciate that on this Committee we may have to do some compromising, and you will realize that we will be trying to approach your position. If, for example, we cannot get you under the I.R.D.I. Act, we will, nevertheless, try to get changes in Bill No. C-170 which would make it a little more of a genuine collective bargaining act. That would better, but you still might not be willing to give it a try.

Mr. KAY: Not really; because we would want to be separated from the remainder of the civil service.

Mr. KNOWLES: Then, if I may say so—and I was not trying to lead you in this direction—you have in effect confirmed my two previous statements, that the basic things you want are genuine collective bargaining, of the kind you get under the I.R.D.I. Act, and to be treated as a different animal in collective bargaining arrangements than classified civil servants. I am stating correctly your basic desires?

Mr. KAY: That is correct.

Mr. KNOWLES: What we do in this Committee to try and meet those is our problem.

Mr. WALKER: Mr. Kay, do you feel there is more freedom to strike action under the I.R.D.I. Act than you do under Bill No. C-170?

Mr. KAY: No, I do not.

Mr. WALKER: Oh, I thought this was the point you were making.

Mr. KAY: Bill No. C-170 provides for procedures comparable to the I.R.D.I. Act.

Mr. WALKER: I know. I thought from what you were saying—and I think you did make the statement just a few minutes ago—that there was no prohibiting the right to strike. Perhaps I misunderstood you, but I understood you to say that Bill No. C-170 would almost prohibit the right to strike. Of course, we know this is not so.

Mr. KAY: Certainly.

Mr. WALKER: There is just one other point I want to make, and I have asked other witnesses about this: On this whole question of a third party in these negotiations, in this contest of power—coming down to negotiations between an employer and an employee and the organizations representing them do you not agree at all that there is a third absent party which must be considered when it is an essential service—as a matter of fact, a monopoly because I consider the mail service in this country a monopoly—you do not consider that that third voice, that of the public interest, should be represented in this contest of power between an employer and an employee? This, in my mind, is where I make the difference between an ordinary industry and something so essential as the work that you people do.

Mr. KAY: I think the employer's interests would be protected by the employer's representatives at the bargaining table.

Mr. WALKER: Yes, I agree. I am talking about the third party.

Mr. KAY: The third party, we would suggest, should come in at the time when negotiations are not making any progress. This is the time we would think that the third party should be called in to try to resolve the disputes.

Mr. WALKER: But do you accept the principle that there is something more in this contest of power—and I will use the word because it has been used by other people presenting briefs—do you not agree that there is another principle involved besides this straight contest of power between two parties?

Mr. KAY: Not at the initial stages of bargaining. The bargaining should be left to the two parties at the table.

Mr. WALKER: To settle what question?

Mr. KAY: Whatever question happens to be in dispute whether it is wages, or working conditions.

Mr. WALKER: Whatever question comes up, should it not contain, as one of its facets, this whole question of the public interest in this particular service that we are talking about, namely, delivering the mail?

Mr. KAY: Here, again, I fail to see where there would be no protection of the public interest. The protection would be there from the employer's representatives at the table.

Mr. WALKER: No. This whole third, unheard of party, namely the public interest, simply is not represented there. Originally, the struggle is between two parties, employer and employee. What about this public interest bit out here? There are some services in this country that literally the country cannot do without, and where there is no competition on which we can rely. This is what Senator Mackenzie was saying when he was mentioning the C.B.C., and, I believe he was mentioning it in a much narrower concept than perhaps Mr. Knowles brought up, and was talking in terms of the C.B.C. which does not have a monopoly on the air waves in this country. There are other means that could be used for a short time to do the work that the C.B.C. does. But this is not the case with the particular service which your people provide. There is nobody else to do this work. This is the point I am trying to get at: Who represents the third party who may be more affected by a strike than either the employer or the employee?

Mr. KAY: I think the parties to a dispute could resolve the problem of when to call in the third party for conciliation in the dispute.

Mr. WALKER: May I put it this way: Do you feel some responsibility, in your negotiations, to represent more than just the actual claims of your own people. Do you feel a larger responsibility than that when you are negotiating? Do you feel the responsibility for providing mail service across the country?

Mr. KAY: Both parties should have that responsibility, and keep in mind the public welfare, certainly.

Mr. McCLEAVE: A supplementary on this: We used the railway parallel here, but I think there are two groups of public servants who are very much employed, and both accept the discipline and the disability that they can never go on strike, or ever even think of strike. One is the Royal Canadian Mounted Police and the other is the armed forces of this country. There is just no thinking, in either of these groups, that they would ever have the right to strike.

Why cannot postal employees, performing the monopoly and vital service, accept the same way of thinking?

I think, in the past, everybody around this table would recognize that the mounted police and services, because of this disability, have suffered at times, that is, their pay has not been proper and so on; but, nonetheless, they accept this disability and it is a discipline with them. Why not with the postal employees?

Mr. KAY: You mention the R.C.M.P. There is certainly the safety and security of the state involved, and I believe the policemen's union, or whatever union the R.C.M.P. belong to, accept the principle that they should not go on strike. They accept the principle of compulsory arbitration from the very start. But we do not think that the post office provides such a service that the security of the state is involved.

Mr. McCLEAVE: The fiscal operations, the business life of this country would depend on whether mail is being delivered.

Mr. KAY: It would be the same with other industrial workers also, such as the railways, or even the woodworking industry. The economy of the country depends upon these people, and yet they are permitted by legislation to go on strike.

Mr. McCLEAVE: But are you not closer to the mounted police and the services, by the nature of your functions, than you are to woodworkers?

Mr. KAY: I would say we are closer to the railway workers than we are to the mounted policemen.

Mr. KNOWLES: May I ask a supplementary to this?

If one, like Mr. McCleave, moves this line from the army and the mounted police out to include postal workers, where does one stop? Do you not go on until eventually you say nobody should strike because everybody is doing something the public needs?

Mr. McCLEAVE: I am not a witness here. I wanted to get Mr. Kay's opinion, and my own opinions I will keep to myself until we get down to discussion; but

I put the question in the most provocative way I could to sound out our witness, to see if he had a philosophic base for the series of statements and pronouncements that he has made here this morning.

Mr. KNOWLES: I was putting my question to Mr. Kay, although I was looking at Mr. McCleave. My question is directed to the witness.

Mr. KAY: Certainly, it would be hard to draw the line with regard to who should be allowed to go on strike and who should not. We think that if the postal workers were to be prohibited from going on strike so should the milkmen, the wood workers, and the longshoremen, they provide a very essential service to the community.

Mr. HYMMEN: Mr. Kay, I have a couple more questions. You seem to favour the I.R.D.I. legislation for many reasons, one mentioned being the simplicity of the bill. Not being of legal background I can agree with you on that point, because you also said that Bill No. C-170 seems too involved. We had evidence by the chairman of the Preparatory Committee that in an entirely new venture, which this bill is, they tried to incorporate something which has grown over forty or fifty years, a situation similar to the United Kingdom. I am not trying to put words in your mouth, but you do not feel that this bill is intentionally involved?

Mr. KAY: We think it was designed to give the employer as much protection as possible against every eventuality. That is why the bill is so complicated.

Mr. HYMMEN: I do not think that was the intention at all, so we disagree there.

In your brief, on Bill No. C-181, you refer to something which has been brought up here many times, and that is the concern about the designation of authority—the things which might happen because the authority is being delineated. I also gather from your submission that you disagree with the bill in that certain matters exercised by the Civil Service Commission, are being taken out of the collective bargaining.

On this question of the right of the individual against the delineation of authority, assuming that the right of appeal, arbitration on matters such as hiring and firing and transfer and other matters are not put into Bill No. C-170, we again come to the right of appeal. Do you feel that this appeal, and the right of employees, should be directed to the Civil Service Commission which is presently the arrangement, or do you think this should be an outside body, say a judicial body.

This is all very involved, but I hope you gather what I am driving at.

Mr. KAY: I think the matter of firing and disciplinary action on the part of the employer should be a subject taken up by the griever and by the union with management, to try to resolve the grievance. If no agreement is reached, then it should be referred to an independent, or other body, such as an arbitrator, to rule upon whether the griever has a legitimate grievance or not, rather than to refer it to the Civil Service Commission. It should come under a proper grievance procedure.

Mr. HYMMEN: It was explained to us last week that under the present arrangement the appeal division of the Civil Service Commission was entirely

separate from the general operation. I do not know whether the civil servants have been entirely aware of this in the past. This would be the new arrangement under which this might operate. My other question was would your group feel better if this were under another arrangement, for instance, a specially appointed judicial body?

Mr. KAY: I think we would feel better if it went to a judicial body rather than be left to the Civil Service Commission to rule upon it.

Mr. HYMMEN: I now have a third question. I do not intend to question you on the Montpetit Report; you said you read it and some members of the committee have read it as well. I believe Justice Montpetit remarked in this report that he felt that the postal service should be brought into the twentieth century. I know there are many problems regarding the rights and amenities and working conditions of the postal workers. Do you agree with Justice Montpetit's statement in this regard?

Mr. KAY: We think they are operating in about the eighteenth century rather than the twentieth, especially in the matter of staff management relations.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Kay.

Mr. KAY: I am surprised that I was not put to the test that my colleague Roger Decarie was.

The JOINT CHAIRMAN (*Mr. Richard*): Maybe you are a more docile witness.

Mr. KAY: It might be that. Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): Would you come back next week, or whenever we are ready to examine the bill and study the sections, so that you will be available for comment?

Mr. KAY: It will be our pleasure.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

We have the Canadian Merchant Service Guild represented by Mr. Cook, who wishes to make a short presentation. There is no brief. Mr. Cook requested the committee's permission to come before us. Last week the committee granted that permission.

Senator MACKENZIE: Who are they, if you do not mind me asking, Mr. Chairman?

Mr. R. COOK (*President, Canadian Merchant Service Guild*): Our organization represents the ships' officers in Canada.

Senator MACKENZIE: The Canadian Merchant Marine under the Canadian government service?

Mr. COOK: No, we are a trade union and we have been in existence for 48 years. We represent the vast majority of ships' officers in Canada, and this includes the majority of the government ships' officers.

Senator MACKENZIE: Does it also include the Canada Steamship Company's officers, and so forth?

Mr. COOK: Yes.

Senator MACKENZIE: All the Canadian registered ships?

Mr. COOK: Yes, that is right. All the Canadian ships on the west coast, the great lakes, the Northwest Territories, the maritimes, throughout all Canada.

Senator MACKENZIE: Including the government service?

Mr. COOK: Yes.

Senator MACKENZIE: Thank you so much.

Mr. COOK: Mr. Chairman, I would first like to thank the joint Chairmen and the members of the committee for allowing us to appear. We asked to attend at a rather late date. We had not originally intended to make a presentation here. The Canadian Labour Congress was drafting material and did so very adequately, I think. However, we became involved in a few meetings with the classification committee, and from some of the things we found in our meetings with them we felt that we should come before this committee and state a few of the problems, as we see them, which could well arise if this proposed legislation is passed.

Section 26(1) of Bill C-170 reads: "Within thirty days after the coming into force of this Act, the Governor in Council shall, by order,

- (a) specify and define the several occupational categories in the Public Service, including the occupational categories enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service;"

Now, when we were meeting with the committee we found that their area was much broader than we had anticipated. We found, for one thing, that what they were really doing, in so far as setting up the classifications and categories is concerned, was a job evaluation. This part where in section 26 it states that they specify categories, this committee has set it up in such a way that you have categories, groups, sub-groups and grade levels.

In some instances they have taken two or three different jobs which bear no relationship to each other and have stated that they are at this level. When we sit down to negotiate, we negotiate on the assumption that what we get for one of these groups automatically is the end result wage for all of these three groups.

We found instances where a dockyard pilot, who is fully responsible for taking 25,000 ton ships in and out of very busy and crowded harbours, is put on the same level as a relieving master of a vessel of somewhere around 1,900 tons.

We completely and utterly disagree with this but under section 26 there is nothing we can do about it. This man must be graded at the same level as the relieving master on this 1,900 ton vessel. We feel that this is an area which should be open to negotiation. We do not think that these things should be predetermined.

Also, in defining the categories, we find that not only do they define the categories they also list the duties.

Mr. LEWIS: Of each job?

Mr. COOK: Yes, of each job. When they list the duties this means now that this is not negotiable and the duty of the man on the job is no longer within the

area of collective bargaining. We have, in the maritime service of the Canadian government, situations where ships' crews are required to build forms, mix and pour cement, construct navigational aids and paint lighthouses. These things, in our estimation and, as I say, we have been in this business for 48 years, are not jobs which should be done by shipboard personnel. We asked very specifically of the members of the committee does this mean, once this is established, that we can no longer negotiate on these things? They said, "Very definitely, you cannot negotiate once that is listed". We think that the government by doing this is limiting the areas within which we can negotiate and it is our estimation from our knowledge, and it is the estimation of the trade union movement in Canada in general, that there are no areas with regard to the working conditions of the employees which should not be subject to the matter of collective bargaining. Section 68—and this pertains to arbitration—reads:

In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute the Arbitration Tribunal shall consider and have regard to

- (a) the needs of the Public Service for qualified employees;
- (b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant;

If they set out the duties, how then do you compare it to the job being done by the man in the commercial aspect of the industry? I do not think this could be done. We think that they have very definitely restricted the areas within which we can negotiate.

Some hon. MEMBER: What clause is that you just read?

Mr. COOK: It was clause 68 (a) and (b).

On the matter of promotions, lay-offs, re-hires, seniority, and so on, in Bill No. C-170 it is covered by clause 73(3) and clause 86 (3). We agree with other organizations who have submitted briefs to the effect that in the case of new appointments the merit situation is fine, but the trade union movement has fought for many, many years to protect the rights of the man on the job with particular regard to his job security. We feel that seniority is one of his basic rights. This is something he has earned by virtue of putting a number of years in with his employer. He has the right to this job. He also has the right, in our estimation, to any job which is open that he can handle. The merit system does not take this into consideration. The merit system says the very best man will get the job regardless of how long he has been in the service, the man who can do that job best. Now there are many, many people working for the government and in every other industry in Canada who cannot eventually, through lack of ability, arrive at the very top positions in any industry. There is a limitation here. Some people can go so far and that is as far as they can go. In our estimation we think any man or woman who has served his company well and can perform a duty that is above the one he now does, then he has that right to this particular job. I think there are obligations on both sides. I think the man has an obligation to his company to perform to the best of his ability and I think that the company has an obligation to the man to allow him to fill the position of the very highest category that he could possibly attain.

If you were to take 100 trade union leaders who have negotiated probably thousands of agreements and say to them, "What is the most important item in your agreement?", I feel sure that nearly every one of them would say, "Seniority would be in the first four, anyway". I think this is a protection that we have found is becoming more and more necessary probably because of mechanization, automation, and so on, but we find now that seniority is becoming the key protective clause within any collective agreement.

Many people could argue—and apparently the commissioner of the civil service did so—that the merit system now in use is the best system. I will give you an example of what has taken place in the merit system within the Canadian government.

The largest new ship in the area was put into service and appointments were to be made for the various jobs on this ship. A number of people were in line for these particular jobs, many of them with from five years to twenty years' of experience with top qualifications in their field, and many of them applied for these certain positions. On one particular position I will speak of, which was a chief mate's position, not the key position on the vessel but an important one, there were a number of people who applied for this appointment with many years of service in every area of this department. They had all kinds of knowledge, plus the qualifications, the proper certificates, experience, everything they needed, and yet when the appointment was made it was made for a fellow who had not been in the government for six months, had not even served his probationary period, yet he suddenly is in a position over people who have been in the department from five to twenty years and who could very easily handle the position. This is the type of thing that has happened in the government service.

We think that this matter of promotion, and so on, causes more dissension within the Canadian Government service than any other matter.

Another thing that takes place is that reports are made out by the superiors in various departments. These reports are made and the man who has the report made about him does not have any knowledge of what is in the report. His superior could be saying that the man absolutely cannot handle men. This would be one of the key features for promotion, whether you can handle people under you. This may be in that report and it may go in that report month after month after month for five years and this man does not even know that this bad report is going in on him, he does not know why people are being promoted over his head, he has no understanding why this is taking place, but it does take place. So, he sits there and becomes frustrated and very angry with the government concerned.

In these collective agreements, as we have had them in the past, we used to have the term "merit" and, in fact, most of the clauses used to read, "Merits being equal, these certain persons shall get the job". We found that we had to eliminate this term completely because merit is generally determined by management. It causes a squabble between two people trying to determine who has the most merit for a particular job, and what we have done is substitute this particular type of clause for a clause which says, "Ability being sufficient then the man gets the job." This is the way we feel it should be handled. If you have sufficient ability to do the job, then you should receive that job.

Mr. LEWIS: Depending on seniority.

Mr. Cook: Yes, depending on the seniority. In our estimation the employer sets up the merit system, he administers the merit system, and when you make an appeal you make this appeal to the same people who set up the system and we do not think this is workable. We do not think this is fair.

In the matter of compulsory arbitration we feel the Industrial Relations and Disputes Investigation Act does handle this problem quite adequately. We think this part of the act was set up with the idea in mind of eventually arriving at a settlement. Now with this proposed system we have here you predetermine your choice; you say either we want compulsory arbitration or we want the right to strike. What happens—and this I would be interested in knowing—when you strike at a deadlock and you have chosen the right to strike and you are on strike, does this mean, if both parties are stubborn, this strike goes on forever? Perhaps the two parties may have said, “Well, we agree; let us put it to a neutral group.” Even though you have chosen the right to strike, there are times when there is such a gap between the two parties on a certain issue that you need that outside group to come in and resolve the problem. This could be handled with regard to just one item or with regard to the whole agreement. I feel certain, as far as our own group is concerned, we would ask and demand the right to strike. However, it rather frightens me to realize that we may get ourselves into a strike some day and have no possible method of solving our differences after we are already on strike.

Now our organization wants to make this legislation work.

We are prepared to be as co-operative as possible with the management concerned and we certainly look forward to seeing good legislation come out. However, we do think that this should be an equal right, that we should have the same rights as the employer, and we certainly hope a great area of our bargaining rights are going to be predetermined by someone before we even start to negotiate. Thank you very much.

Mr. FAIRWEATHER: You said, Mr. Cook, that you are in the Department of Transport vessels servicing lighthouses and buoys and markers in the rivers?

Mr. Cook: Yes, this is part of their duty. The officers supervise this work.

Mr. FAIRWEATHER: You would not for one minute think that these men who work on the vessels servicing these installations on our seacoasts and navigable waters have a right to strike, would you?

Mr. Cook: We represent all of the ships' officers in Canada. I can assure you that we are responsible people. I think most trade union leaders in Canada are responsible people. I feel certain that if we did strike that we would demand of our members that they do not jeopardize the life or safety of any of the people sailing in Canada. But this is not the only job done by the groups under the federal government.

Mr. FAIRWEATHER: Oh, I appreciate that, but I for one could not imagine that the officers of these vessels that service the lighthouses and aids to navigation in this country have a right to strike. I would presume it would be a service essential to the safety of the state.

Mr. Cook: If in any way it concerned the safety of life, we certainly would make arrangements to see that this was looked after. There are other areas in which the services are not—

Mr. FAIRWEATHER: Would not the officers on these vessels expect that this was a service essential to the safety of the state and therefore there would be no right to strike?

Mr. COOK: Yes, this is fine, but how about fishery patrol vessels, for instance; they go out and act as a police force on the fishing industry and watch conservation, and so on. Is this also included?

Mr. FAIRWEATHER: No, I did not mention that. I mentioned the ships that leave our seaports to look after the aids to navigation, be they lighthouses, buoys, markers, and so on.

Mr. COOK: Well, this would depend. If there is any possibility of the loss of life because of any job they have refused to do, we would insist that they do this job, whether it is to act as a coastguard or to put in buoys or markers, or so on, in various channels. This would be determined at the time we were making preparations for a strike. You have hospital workers who have gone on strike but they do not all walk out of the hospital and say, "Well, it is too bad about the people who are sick." They certainly make arrangements to look after the people who possibly could lose their lives because of the withdrawal of their service.

Mr. LEWIS: Could you tell us first, Mr. Cook, are you the president of the organization?

Mr. COOK: Yes, I am the national president.

Mr. LEWIS: Do you mind telling us how many members you have across Canada and how many of them are employees of the federal government?

Mr. COOK: We have between 5,000 and 6,000 members about about 1,400 are members working for the Canadian government.

Mr. LEWIS: Is your organization affiliated with any of the civil service organizations or with the Canadian Labour Congress?

Mr. COOK: We are affiliated with the Canadian Labour Congress, with the I.C.F.T.U., and with the Masters, Mates and Pilots of Great Britain.

Mr. LEWIS: Do you mind outlining, by heading, the major classifications of officers in your organization?

Mr. COOK: Within the government service?

Mr. LEWIS: Yes.

Mr. COOK: There are pilots, dockyard pilots, masters, mates, engineers, radio officers and there is another point in dispute on the matter of electricians, but in the commercial area of the industry we also cover ships' electricians.

Mr. LEWIS: You told us that your organization has existed for some 48 years?

Mr. COOK: Yes.

Mr. LEWIS: Do you know how many strikes you have had in those 48 years?

Mr. COOK: I was thinking about this the other day and I think it is seven. We have, incidentally, over 100 commercial companies under contract right at this moment.

Mr. LEWIS: You have had seven strikes in the 48 years?

Mr. COOK: Yes, in 48 years.

Mr. LEWIS: You should be put up on the tower of the Parliament Building as an example.

Mr. COOK: Well, that is debatable. Maybe we should have had some strikes.

Mr. LEWIS: Mr. Cook, I was very interested in your revelation, I was almost going to say, about this classification committee. Is that what I have heard called the classification bureau?

Mr. COOK: Yes. I assume so.

Mr. LEWIS: Is that a Civil Service Commission agency?

Mr. COOK: I could not answer. Someone who is more familiar with the—

An hon. MEMBER: I stand to be corrected but it is Treasury Board.

Mr. LEWIS: I could not remember. I was asking Mr. Knowles because I thought it might be Treasury Board.

Mr. WALKER: What is the classification bureau for the Civil Service Commission?

An hon. MEMBER: It is the Bureau of Classification Revision.

Mr. LEWIS: The Bureau of Classification Revision. Mr. Cook, you say they are not in the process of setting up the new classifications and the classification categories and groups?

Mr. COOK: Yes, they have been for quite some time. Could I make a point here. First, I would like to say that the work done by this committee is fantastic and it is a good job. They have done a very good job and they have put a lot of work, thought and effort into this. We do not think this should be completely thrown away. What we say is that we should take this work they have done and use it as a guideline for negotiations. I think it would be a wonderful basis for this. But we cannot agree to something they have established, without any rights of our members to dispute what is being put in there.

Mr. LEWIS: If the Chairman will permit me, let me take you step by step on this because I may have a suggestion to make to the chairman when you have answered some of my questions. Am I correct in thinking that the committee called you in? Are they calling in the various organizations to discuss these classifications?

Mr. COOK: Oh, yes, you discuss it, but in our discussions with the committee, as far as the duties of the persons are concerned, they said, "we cannot change that because the department heads have told us the various duties that have been done in the past, and this is what we have listed, and this is what we work from."

Mr. LEWIS: On that point I was a little confused as to what exactly you had in mind. I am merely seeking information. I have the greatest sympathy with the objections that you have made to some of these things, from my own experience. But are you saying that the duties of jobs which you have seen are incorrect? If they are doing job evaluation, which is what I gather they are doing in part, in order to classify and evaluate the jobs, then obviously they

have to find out somewhere what the duties and responsibilities of the jobs, in fact, now are. Is there a dispute between you and the committee as to what the duties now are, or a dispute as to what they should be?

Mr. COOK: There is a dispute as to what they now are, and what they now are is going to be carried over as the definite duties after the collective bargaining starts. We dispute it in both instances.

Mr. LEWIS: Is this not a dispute on fact, though? I think clause 26 puts all the organizations under the act to very considerable disadvantage, but what you are saying now is a dispute on fact, is it not? Is it not possible to find out what the actual duties are? Why should there be this kind of controversy over whether or not a certain member of your organization, in fact, does a certain job?

Mr. COOK: There is no dispute that he does the job. The dispute is, on our part, whether he should be doing the job or not. I will give you an example of this. In the Great Lakes area a master of one of the coastguard vessels was told to tell his crew to go and paint a 104-foot lighthouse. When the master discussed the matter with the crew, they said, "No". The master sympathised with the crew. He agreed that this should not be part of their duties, and he went back to the district agent and told him so. The district marine agent said, "you fire the whole crew". The master said, "no, I will not fire the crew because I think they are right. I do not think it is safe for untrained people to go up and do steeplejack's work and master rigger's work. Someone could get hurt, and I am not going to take on this responsibility." So they demoted the master. The crew never was fired, and to this day they are still sailing on that vessel. But this particular job, you see, we feel is not a part of the type of job that ships' personnel should be doing. We want to negotiate this.

Mr. LEWIS: What my questions were directed to was to find out, and you have made it clear, that what the classification bureau is doing is writing down the duties that they have been told various classifications perform.

Mr. COOK: Yes, that is right.

Mr. LEWIS: But your organization is of the opinion that some of the duties are not properly assigned.

Mr. COOK: Yes.

Mr. LEWIS: And that you want the opportunity to negotiate the job content of some of your classifications.

Mr. COOK: That is true.

Mr. LEWIS: And what you are saying is that the duties the classification bureau now writing it down, in view of section 26, will become frozen for all the classifications, and you will not have anything to say about it.

Mr. COOK: That is right, exactly.

Mr. LEWIS: Mr. COOK, do you know whether this review that you were asked to come and discuss has to do also with this red circling that is going on, that part of it as well?

Mr. COOK: There was no discussion on the matter. It would not be correct for me to even venture a guess.

Mr. LEWIS: You do not know. Mr. Chairman, I have one or two other questions but—

Mr. BELL (*Carleton*): Red and green circling is an obvious consequence of what is going on.

Mr. LEWIS: That is what I thought. Mr. Chairman, I have one or two other questions, but before I ask them I would like to make a suggestion—if necessary, a motion. I think the review that the bureau of classification research is doing is absolutely essential to an understanding of the initial application of the bill before us, because it will determine, if they are no changes in section 26, the bargaining unit.

I would like to suggest that this Committee ask the head of that bureau—not the head of the Civil Service Commission, but the head of this bureau of classification review—to come here and explain to us and be subject to further questioning, as to precisely what the bureau is now doing, how it is going about its work, and what the relationship is of the work it is doing to the plan under Bill No. C-170.

If necessary, I would like to move that this suggestion be referred to the steering committee for consideration and to make the necessary arrangements. I think I ought to say that if the steering committee rejects this suggestion, I reserve the right to move it at the Committee as a whole, because I think I, as one member of the Committee, would be able to understand the application of section 26 and all the rest a great deal better if I knew directly from the bureau chief exactly what it is they are doing.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, I suppose that is a matter that should be referred to the steering committee.

Mr. LEWIS: I appreciate that.

The JOINT CHAIRMAN (*Mr. Richard*): To which of the committees should it be referred? If you wish I will do so, but I was wondering at what stage you would want Mr. Anderson to appear before the Committee?

Mr. LEWIS: Some time before we start clause by clause discussion.

The JOINT CHAIRMAN (*Mr. Richard*): I will call a meeting of the steering committee before the next meeting, then. Is that agreeable?

Mr. KNOWLES: If there is general agreement to it now, we can avoid the holding of that meeting.

The JOINT CHAIRMAN (*Mr. Richard*): I think it is a matter which should be discussed, unless there is complete agreement.

Mr. BELL (*Carleton*): I think the only issue there could be is whether, appropriately, the witness should be the chairman of the Civil Service Commission or one of the people down the line reporting.

The JOINT CHAIRMAN (*Mr. Richard*): I think it would be better to leave it to the steering committee.

Mr. LEWIS: I have no objection. I appreciate that there might be some considerations that I am not aware of.

The JOINT CHAIRMAN (*Mr. Richard*): That is what I am thinking about, too.

Mr. LEWIS: Personally, with great respect to Mr. Carson, I would much rather hear from the person responsible under Mr. Carson for this review.

The JOINT CHAIRMAN (*Mr. Richard*): I quite understand that. So we will discuss that in the steering committee. Any other questions?

Mr. LEWIS: I was going to ask Mr. Cook this. All of us, I think, have so far been in agreement at the meetings I have been able to attend, and witnesses as well, that the initial appointment is properly left to the Civil Service Commission, and should be based on the merit system. Do you agree with that?

Mr. COOK: Yes, I do.

Mr. LEWIS: As a matter of fact, I have been wanting to say several times—and from your experience with private industry as well as the federal government you are the right witness to see whether I am right or wrong in this—is it not true that, in fact, initial appointment is always left to management?

Mr. COOK: No. We have closed shop agreements and hire through our own hiring halls.

Mr. LEWIS: Yes, there may be. I should have said, with the exception of hiring halls where they exist and closed shop agreements where they exist. They are a minority of the cases, but generally, in trade unionism, management has the right, for an initial engagement of an employee, to employ anybody it likes and there is a probationary period during which, as a rule, the collective agreement does not provide grievance procedure for dismissal. It may provide other benefits.

Mr. COOK: That is right.

Mr. LEWIS: The general proposition is that you leave to management the initial engagement of an employee, but once he remains an employee he comes under the bargaining umbrella.

Mr. COOK: Yes.

Mr. LEWIS: So that really, in this respect agreement on the merit system applying to initial appointments is not terribly different from the general way in which these things are handled. I gather what you object to, as other witnesses have, is leaving promotions, transfers, demotions and discipline entirely in the hands of the management.

Mr. COOK: Yes, we think it is the fundamental right of the man working on the job to be able to protect his job. He has devoted quite a bit of his life to the company and he has some rights in the matter of promotions and lay-offs, and so on.

Mr. LEWIS: Your objection to the merit system, applied in the case of promotions, is that management naturally picks the best qualified rather than the person who is qualified and has seniority as well.

Mr. COOK: Yes. I can foresee in the future young fellows coming out of school and just pushing all of the older workers right out of the picture because of the fact that they have better education. There would be no protection to any great degree for the older employer.

Mr. BERGER: I would like to ask a supplementary on that point. I can hardly see why so many years of service with a company should be the main criteria for determining who is best qualified and suited for a job.

Mr. LEWIS: Mr. Cook, you did not suggest that?

Mr. BERGER: We are talking about seniority to protect the old employees. You just gave me the example which I am coming to. I had a problem about a month ago regarding a chief mate. He did not get the promotion which he thought he was going to have. A young fellow coming out of a naval school got the promotion. The reason which was given was that, of course, this mate had experience but with new gadgets, new instruments, new techniques being developed, this new man was best suited for the job. The old chap knew the channel in which he was travelling very well. He told me he could go there with his eyes closed. We have had so many accidents in the Quebec section—the St. Lawrence Seaway—I can have doubts and other people have doubts. That is why I cannot quite agree with you and I need far more information.

Mr. COOK: Where the lack here is, of course, the upgrading and training on the job. This is something which is wrong with the department involved. If they had assured the fact that the personnel who they have presently employed were kept up to date and were kept on an upgrading and training program, then this would be eliminated.

Mr. LEWIS: Well, that does not answer Mr. Berger's question. I do not agree with what Mr. Berger said for another reason, and I will come to that in a moment. But, that does not answer his question.

Mr. COOK: I could answer it.

Mr. LEWIS: Well, answer it because the fact that you want a program to upgrade the existing personnel does not touch the fact that someone else has now been appointed with the upgrading not present.

Mr. COOK: As far as the gentleman's question is concerned on the matter that seniority alone will determine whether or not a man gets a job, this is not correct. It is seniority, qualifications and ability. All of these things are taken into consideration and you must have sufficient ability to be able to do the job before you get the promotion.

Mr. LEWIS: Your point is that—see if you agree with me—my answer to Mr. Berger would be that if in fact this older service man was unable to perform the job because he was unable to deal with the new developments that the job required, then your seniority clause would not protect him, the fact that he was unable to do it.

Mr. COOK: He would not have the ability to do the job.

Mr. LEWIS: What you are saying is that if the job can be done by the old man, despite the new gadgets—if, for example, in the course of a week he can become acquainted with the new gadgets because of his long years of experience, then you say that even though he did not come out of a naval school he has a service which should enable him to improve his position and his income. Is that what you are saying?

Mr. COOK: Yes, that is correct.

Mr. BERGER: Even there I cannot quite agree with that, and that is why I am in favour of the merit system, because actually for the last two years, let us say, in order for a man to be hired as a sailor on government ships he had to have at least a ninth grade education. The big trouble up to the last few years was that men went into this service as ordinary seamen and they stayed ordinary seamen until they were 40 or 50 because they could not go any higher. Now, with this new class of young fellows coming in, studying, having a better foundation, as far as schooling is concerned, they will certainly go ahead. The proof of that is that we have had complaints from certain mates that they could not get a job. Sometimes the government had to go overseas to get, let us say, British officers to man their ships or to be first mates. The men complain about that. That is exactly why I think the government is doing it today—to have better education at the very beginning so men can advance and receive promotions. Now, I do not know, I could not give you any figures but let us say that pretty close to half of the crews we now have cannot go any higher than they are today. If we want to clear up that situation—if we want it to be better from now on—I think we have to take the right steps and then the merit system will overcome the seniority system. That is what I am trying to clear up in my mind.

Mr. COOK: I am sure that every industry in Canada, and the owners of every industry in Canada, would just love to have the opportunity to say: "We will pick and choose who we put on all jobs; who we lay off, who we keep". This is something which the trade union movement has fought against, for many, many years and they did not get it all at once—they have been getting a little chip here and a little chip there, to the point of where they have some reasonable facsimile of protection for the older employee or for the man on the job. I think that this is a fundamental right and I think that the man should have some protection. If he does not have the ability to gain promotions, then he will not get the promotions. But, if he does have the ability to do a certain specific job, then I think by virtue of his seniority with the company and the ability to be able to do this job he should certainly have it. I do not think that any young man coming out of school should walk right over his head.

Mr. WALKER: In your experience with promotions in the service has seniority been one of the factors in the merit principle of employment?

Mr. COOK: Yes, this is one of the factors.

The JOINT CHAIRMAN (*Mr. Richard*): Any other questions?

Mr. WALKER: Yes. You mentioned a case where six people had applied for a job. I do not think it was a new appointment; they were looking for a promotion. What is your procedure? You said someone who had not had finished his probation period got the job. Where do you go from there?

Mr. COOK: Well, there is an appeal system.

Mr. WALKER: Was this man, incidentally, a member of your organization?

Mr. COOK: Yes. There is an appeal system but you appeal to the same people who have made the promotion so it becomes a rather ridiculous situation. It is like a judge sentencing you and then you go and make an appeal to the same judge against a poor decision.

Mr. WALKER: Do you disagree with the appeal procedures set up in the legislation?

Mr. COOK: Quite frankly, I have not made a thorough study of it because there were only a couple of points I really wanted to discuss in the proposed legislation. It is very complex and complicated and I would not like to venture into it.

Mr. WALKER: If there is an appeal procedure in that legislation that you have confidence in at the top stage where you work your way up through the appeal system, if you have confidence in the total independence from the employer of the people who are hearing the appeal, is this attractive to you? Does this help with the type of problem you have mentioned.

Mr. COOK: No, it does not dissolve the primary problem which is that under the merit system if a man has proper seniority and enough ability to do a particular job it does not mean that he is going to get this job. The fellow with the most ability is going to get the job.

Mr. WALKER: There are only so many of them to go around.

Mr. COOK: That is right.

Mr. WALKER: There are only so many jobs.

Mr. COOK: This is the opinion of departmental heads, too, as to whether one person has the most ability rather than another.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Cook.

Mr. HEENEY: Mr. Chairman, I wonder if it would be improper of me to make an observation on the last line of questioning of Mr. Cook. May I just make an observation?

There seems to have been no distinction between the employer and the Civil Service Commission in regard to this question of promotions. One of the basic elements in the proposition which is now embodied in the act is that there is a distinction, and an important distinction. The Civil Service Commission is not the employer. It is the government that is employer and it will be represented by the Treasury Board and under the Treasury Board, delegated from the Treasury Board, the departments themselves. If the Civil Service Commission cannot be objective and independent of the employer the system collapses. This is the proposition which existed and upon which the 1918 legislation was based, not only in relation to initial appointments but also with regard to the application of merit in promotion. If the employer is to be equated with the commission our whole cause really collapses.

You will forgive me for making that intervention but I think there was a confusion in the answers made by the last witness which seemed to be based upon the proposition that it was the employer that was administering a merit system and determining promotions according to his own wishes.

Mr. BELL (*Carleton*): Mr. Heeney, I think we should go ahead and explore this a little further. Admitting completely the validity of the statement you made and the independence of the Civil Service Commission, now to be called the Public Service Commission, is there not a point to be made that the predetermination of classification and its establishment by the governor in

council will constitute an infringement of collective bargaining; that you have a frozen area in which you can bargain collectively?

Mr. HEENEY: My answer to that is a double negative, Mr. Chairman. It is not an infringement in my judgment, and in the second place, it is the converse of my answer—

Mr. BELL (*Carleton*): Will you expand that?

Mr. HEENEY: —even if it were an infringement it is a transitory one which is only made for the initial period in the predetermination. This, of course, is a problem which I am sure the Committee will find a difficult and an anxious one. I spoke of it in part, Mr. Chairman, when you were good enough to invite me to appear before the Committee a few days ago.

This has been criticized, and I have no doubt that a number of witnesses before this Committee have criticized this predetermination as in some way an infringement of the right of association. I think it is well that the Committee should remember the kind of problem with which the preparatory committee were faced.

First of all, there was the problem to devise a system of collective bargaining and arbitration, of course, to be applicable to 200,000 public employees, who were involved in 400 or 500 different classifications.

We were asked by the government in our terms of reference to consider the relationship of classification to the introduction of a viable system of collective bargaining. We came to the conclusion during the first year of our studies that it would be necessary as a foundation for a system of collective bargaining that it would make sense, from the points of view of both the government and the associations, to simplify this system. We came to the conclusion at the same time that the only viable criterion for bargaining units was that of classification. It is important I think to remember, Mr. Chairman, that the civil service associations, which have quite a long history, and had at that time quite a long history, have been developed not to engage in collective bargaining with their employer but for other purposes, which developed gradually over the years into a consultative relationship which had a good deal of virtue but did not have what I would regard as the attribute as essential under modern conditions, namely the right to bargain equally with the employer. This was our conclusion No. 1. A prerequisite to a viable system of collective bargaining was to simplify this jungle of position classifications, with which Mr. Bell, of course, Mr. Chairman, has become very familiar over a number of years.

We have made this recommendation as an interim recommendation to the government. We recommended that the Civil Service Commission which was in charge of classification be invited by the government because the government cannot direct the Civil Service Commission, to review the whole system of classification in the light of and in anticipation of, the introduction, which was a government established intention, of a system of collective bargaining. The Bureau of Classification was then set up by the Civil Service Commission and it is an arm of the Civil Service Commission. It set about this enormously complicated and difficult and sensitive task, and from my point, of view Mr. Chairman, I am glad that the suggestion has been made that the techniques and the procedures of the Bureau of Classification are to be examined by this Committee. I think it would be a very helpful process. I hope it will not be

necessary for the Committee to get into all the detail the Bureau had to get into because it is an exceedingly difficult technical task; but it will provide in its essentials, I think, a better understanding of the sort of framework within which, the proposals or at least, the preparatory committee's recommendations were made.

I have wandered in part from Mr. Bell's question byt deliberately. May I come back to it, or will you bring me back to it, Mr. Bell?

Mr. BELL (*Carleton*): Perhaps I might say this. At the outset of your answer you said that this was transitory and perhaps you would go on and explain how it is that the several occupational categories that are laid down under section 26 are not frozen, how they are transitory, what degree of flexibility there is subsequently in collective bargaining to change them.

Mr. HEENEY: Mr. Chairman, to comment on that I would answer, transitional for a period which would be determined by law until the expiry of the first collective agreements that are contemplated under the bill. It seemed to us in the preparatory committee, and here the bill does follow in general the recommendations which we made, it would be necessary to stabilize the situation on this basis of occupation, to get genuine collective bargaining started in some sort of administrative order. When that period is over; when, in effect, the first agreements have run out, these conditions no longer obtain and a bargaining agent or an association or union may make application after the expiry of that period for certification on any other basis at all, departmental, industrial, craft, or anything else. It may be with the experience of the initial period behind them, that the Board may conclude that other criteria, other tests are more appropriate for the carrying on of the kind of collective bargaining that is envisaged in our report and by the legislation. Does this answer your question?

Mr. BELL (*Carleton*): Yes, I think it does. I wonder whether in the setting up of the classifications there ought not to be, however, some appellate procedure in the light of what we heard from the last witness. I realize how the review is being operated now but perhaps some confidence in the occupational categories established would result from some independent appeal.

Mr. HEENEY: This is, of course, an interesting question but I am not really the competent witness to enlighten the committee because I am really *functus officio*. My understanding is that is the Bureau of Classification review has proceeded and difficulties have arisen, not only has there been consultations with organizations but opportunity for review of particular cases as they have arisen. But whether this is sufficient or not, I would not be able to answer, Mr. Chairman, with confidence. The principle was all right. Perhaps I should go on, Mr. Chairman, to make a disclaimer that my relationship to these matters which are before the committee now really is a relationship founded upon the report of the preparatory committee of which I was the chairman, and although I have been connected with it somewhat, in the sense, of course, that I followed your deliberations and the debates in the house with great interest, in a sense, to put it more precisely, I am a witness on the report and the general philosophy of the report rather than on the measures and, in particular, Bill C-170 before you.

Mr. KNOWLES: You are one of these third parties, now?

Mr. HEENEY: I think, Mr. Chairman, I am a fourth party, now.

Mr. BELL (*Carleton*): We accept you as an historian and *amicus curiae*.

Mr. LEWIS: Could I follow up on section 26, Mr. Chairman? It might be useful.

The JOINT-CHAIRMAN (*Mr. Richard*): Is that the predetermination section, Mr. Lewis?

Mr. LEWIS: Yes.

Mr. BELL (*Carleton*): And it is a section of 31 of your report, Mr. Heeney.

Mr. HEENEY: Yes. I am happier there.

Mr. LEWIS: If I may, Mr. Chairman; Mr. Heeney, my difficulty about your statement is, with great respect, that it is entirely theoretical. In my experience, if you have bargaining units established and they are "in being" for two or three years, the likelihood of any substantial change being made as a result of applications for certification is extremely small. I appreciate that theoretically it is possible but in fact it becomes extremely difficult.

My objection to it is that in this case—and this would not be the Civil Service Commission because it would be done by order in council as they are the employer—the predetermination of the bargaining unit following upon the review of classifications and the grouping of classifications will be entirely made by the employer, and the employer will, according to section 26, if I remember correctly, also pass an order in council as to when a particular bargaining unit is subject to collective bargaining, so that the whole process of collective bargaining will initially be determined by the employer both as to the framework of the bargaining unit and the date on which the collective bargaining is to start. That is far too much power, in my view, to be left in the hands of the government or any employer.

I wonder whether there is not a better way to go about it. I would like to put a thought which has occurred to me because I have tried to think about it a great deal, and I appreciate, I may also say, that you have to make a start somewhere, that you cannot wipe out the history of the various civil service organizations and that the employer, in this case as in most other cases, is best qualified to begin the process of classification because he has the avenues and the means which every separate organization would not have.

Mr. Heeney, why was it not possible to suggest some kind of scheme like the following: that the employer is given the initial authority by the Act to propose to the staff relations board within a certain limited time, the bargaining units that in its opinion are appropriate respectively for collective bargaining, say within three months? This review has been going on for a long time. Say, that the law requires the government, the treasury board—I do not care who—to place before the staff relations board its definitions of the respective collective bargaining units which in its opinion are appropriate and that then within days those propositions of the government are made available to all the organizations interested—and we know who they are—and that the organizations interested are then given the opportunity to say whether or not they agree. If they agree with a bargaining unit submitted, then the staff relations board issues certification and your collective bargaining starts on the right basis with the agreement of the organization. If the organization disagrees and has alternative proposals to make, then it makes them and the staff relations board

hold a hearing within certain limits of time and makes a determination on the basis of hearing both the employer and the organization.

I am not proposing this in any final form although I must say that the more I think about it the more it seems to me a perfectly practical suggestion. It brings the union and its members—whatever its name—in right at the start, with an opportunity to say whether it agrees with the employer's proposition and, if not, in what way it disagrees and gives the staff relations board an opportunity to enter the picture right at the start of the whole regime.

Why is it impossible to devise some plan along this kind of line which would enable the organizations to take part in the determination of the bargaining units from the beginning?

Mr. HEENEY: Mr. Chairman, Mr. Lewis has made a very interesting suggestion. He has also made a number of observations and, if I may, Mr. Chairman, I would like to make one or two observations before I attempt to answer his very interesting question.

My first observation is that I disclaim the epithet "theoretician".

Mr. LEWIS: Most theoreticians do. I know.

Mr. HEENEY: Is this what makes them theoreticians?

Mr. LEWIS: So your disclaimer is not that valid.

Mr. HEENEY: I recognize that in a sense, having declaimed some parenthood for the legislation which is before the committee, and the legislation being of the complexity and the length which it is, that the preparatory committee is subject to the criticism of having produced a complicated and perhaps a theoretical document. I would like to assure the committee, first of all, that this does not derive only from back room theorizing. In the course of our examination of these very difficult problems because we were ploughing a new furrow, it is very important to remember that being given the task of introducing something quite radical into a public service context of such size and such complexity was something new, given the traditions and organizations of associations and unions which were related in some way to the civil service up to that time. We took the advice and had the experience of those who had been involved in the private sector as well as in the public sector. We did try to avoid producing something which was a blueprint derived in a back room. I know, Mr. Chairman, that Mr. Lewis will accept that.

Mr. LEWIS: I do. I never thought of any back room, Mr. Heeney.

Mr. HEENEY: I am very sensitive about this bureaucratic appellation.

The second thing I would say is that one of the principal considerations which moves Mr. Lewis to ask his question is one which was in the minds of the preparatory committee, the desirability of having as much flexibility in the system as possible, the desirability of not disturbing, any more than seemed absolutely necessary, the strength and vitality of existing organizations. What would happen if Mr. Lewis' proposal were to be embodied in law and, instead of the act providing for a predetermination which would, of course, be executed by the governor in council, what would happen if the government, as the employer, were to make proposals. I suggest to him that in the first place the delay in the introduction of collective bargaining to the public service would be a matter of years and years and years.

Mr. LEWIS: Why, Mr. Heeney?

Mr. HEENEY: I am going to go on to answer that, Mr. Chairman. Because every proposal that was made by the government would be challenged by at least two or three groups because they, within their own constitution, would have a history of quite different basic criteria for membership, and you would have, a jungle, a jungle compounded. We felt it very important that this new possibility of collective bargaining be given flesh as soon as possible—and this is not very soon in the minds of an awful lot of public servants; they have been after this for a long time. If we were going to have it put in terms of a sort of free for all before the Public Service Staff Relations Board, with no guidance in the statute, then I think the C.N.T.U., the C.L.C., the departmental associations, post office workers, everyone would be in there on every proposal of the government and the Public Service Staff Relations Board would never get off the ground. That is my judgment.

Mr. LEWIS: Mr. Heeney, I think your answer thoroughly justifies my objection to what was proposed in your report and what is proposed in the bill, because I suggest you cannot have it both ways. You say that one of the reasons you would object to the kind of approach I suggested is that there would be a challenge of every proposal. If that is the case, then I suggest to you that what you are doing is imposing or suggesting to impose, bargaining units which the unions concerned will not want. Either you are right, that every one of them would be challenged, which can only mean that the unions are in disagreement with the proposal or that what the government would suggest is acceptable, in which case you need not fear the challenge. If you are right that every one of the proposals would be challenged, then I submit to you that what you are proposing in your report and what this bill before us proposes, is that despite any merited challenge, you are going to impose the bargaining unit on it in the first place.

Mr. HEENEY: Mr. Chairman, I refuse to be impaled on this dilemma which Mr. Lewis is constructing.

Mr. LEWIS: I am afraid it is your answer that impaled you on it.

Mr. HEENEY: It is a misunderstanding.

Mr. KNOWLES: Are we in Ottawa or Oxford?

The JOINT CHAIRMAN (*Mr. Richard*): I would like to be in between.

Mr. HEENEY: This is a false dilemma that Mr. Mr. Lewis has posed, or so it seems to me. The proposition is that in the statute there should be provision for the basic framework in the initial period. Some decision has to be made if we are going to get on with it. You suggest that the government should propose and then the various parties should have an opportunity of dissenting. It does seem to me—and perhaps, Mr. Chairman, it is impertinent of me to say this in answer to Mr. Lewis' question, because he has such a long experience in this matter—that the basic tradition of organization within the various associations and unions who are interested and who would be involved is so different in so many ways that if not all unions, if one association, perhaps a dominant one, on one proposition by the government were to be satisfied, the others by definition would have to be dissatisfied. What we are trying to do is get them off to a start on a basis which seemed to us the only really viable basis, namely the

occupational one, so that all would be given an opportunity to settle down. There is, of course, the risk, as Mr. Lewis has mentioned, that having gone on for some time the difficulty of organizing some new concept, some new basis for certification, becomes more and more difficult. Of course Mr. Lewis is right in this, but I, personally, do not think that his proposed solution would really be a satisfactory one, and I can see it delaying the introduction of collective bargaining very much longer than I believe to be necessary. I do not think I could add very much to that.

Mr. LEWIS: I have one other comment and question, Mr. Heeney. I just threw out a suggestion. Obviously, if there were any merit in it, flesh would have to be put on the skeleton. For example, never in my mind, did I suggest that these proposals would go out to organizations that do not have members in the various bargaining units, and that is an easy ascertainable fact, and that is the basis for all certification proceedings. Before you have any status before a labour relations board, you must show that you have membership. Usually you must show that you have more than 50 per cent of the employees concerned as members. Therefore, your suggestion that the C.N.T.U., the C.L.C. and what not, would come into the picture, I suggest to you, is purely theoretical because, as I say, if you put the details necessary to complete the suggestion I made, you exclude those.

My second comment is that I have learned—and I am sure other members of the Committee know as well—that the Civil Service Federation and the Civil Service Association are having a meeting very shortly, November 9 and 10 I think it is, at which time they will merge into one organization.

They have even picked the name for it, the Public Service Alliance. Therefore, this fear that you are trying to build up about the difficulties, I suggest to you, may not be as real as, quite understandably, when one was initially trying to work out a regime concerned one. I am not being critical, I can well understand the fear. But I think that these discussions and the consultation of the organization at the classification table have resolved some of these areas.

Are you persuaded that the proposal of initial determination, unilaterally by the employer of the bargaining unit, is the only way to start this collective bargaining regime, or is it possible for this Committee, with your assistance and the assistance of other people, to work out and suggest a plan which would take this arbitrary—if I may say so, in my view—thoroughly undemocratic procedure, which gives the employer the unilateral right to determine the entire pattern of collective bargaining on his own, subject only to possible change—28 months, I think is the period before you can negotiate.

Mr. BELL (*Carleton*): Mr. Chairman, in fact it is not the employer, it is the Commission.

Mr. LEWIS: Oh no, no, it is the employer under section 28.

Mr. HEENEY: May I comment on that, Mr. Chairman? In the first place, in respect of the occupational groups—I come back to this—the classifications are not being determined by the employer, and if we cannot maintain this distinction between the independent Civil Service Commission and the Treasury Board as employer, as I say, in my judgment the whole Canadian tradition will fall to pieces.

Mr. LEWIS: I am not questioning the independence of the commission, and I appreciate that they determine the classifications.

Mr. HEENEY: If that is not being questioned then the occupational classifications are determined then by the Public Service Commission. All right, that is step number one. Parliament then decides, not the government, that the occupational classes are the foundation upon which the bargaining units will be determined. Is not that it? Then, thirdly, the Governor in Council acts, as he would be required to act, under Section 26. Is this not the sequence?

Mr. LEWIS: I am sure it is, but the final fact in this legislation is that within 30 days after the coming into force of this act the Governor in Council shall by Order specify and define the several occupational categories of the Public Service, including other categories, and then fix the day not later than two years after the coming into force of this act on which the employees within each occupational category become eligible for collective bargaining.

Mr. HEENEY: The Governor in Council is limited to the occupational groups, which are determined by the Civil Service Commission, is he not? This is the sequence which is contemplated?

Mr. LEWIS: I appreciate that but a bargaining unit may be composed of one occupational category and I see no reason why if you had the flexibility it might not be composed of two occupational categories or groups, or whatever it is. It is precisely this rigidity which is introduced when you have five occupational categories actually defined in the Act. Am I not right?

Mr. HEENEY: Mr. Chairman, initially during this transitional period the concept is, and I understand this is carried out in the bill, that each occupational group will be the ambit of the bargaining process, although there might be combinations later on after this transitional period. I must say I have great sympathy with the point of view expressed, the desirability of introducing more flexibility, and I assure the committee we wrestled with this over a long period. But, the difficulty and a highly practical one—not a theoretical one—is to provide a basis to get it started upon and yet provide, the means of bringing in a flexible regime later on. Now the object of the classification process was a prerequisite to providing such a foundation, as I see it. The occupational unit, based upon a classification accomplished by the Public Service Commission, is then the sole unit for the purpose of certifying the bargaining agent initially. Then, after the transitional period it is up to the Public Service Staff Relations Board to consider, in the light of their experience, whether other criteria are available. I would think, Mr. Chairman, that it would be exceedingly difficult for a majority of the associations to find themselves in the kind of situation which, it seems to me, would result from Mr. Lewis' proposal.

Mr. BELL (*Carleton*): I wonder if I might intervene just to put a question. It seems to me that actually Mr. Heeney and Mr. Lewis are not very far apart. As I understand the proposal which Mr. Lewis advances, it is based upon the necessity of some independent body predetermining the occupational categories after all the potential bargaining units have had an opportunity to be heard. Mr. Lewis suggests that that shall be the Public Service Staff Relations Board set up by this act. Now, as I understand Mr. Heeney on that, he feels that would delay and in fact this work is now going on by another independent body, the Civil Service Commission, who are engaged actually at this time in consultation with

all the potential bargaining units, giving them an opportunity to comment on all the proposals that are advanced. So, it is simply a choice between the commission doing this now and getting the collective bargaining off the ground or another independent body not basically different from the Civil Service Commission, doing it at a later time.

Mr. LEWIS: Mr. Chairman, I am sure it is my fault but I seem to have failed in getting across the basis of my objection and the suggestions I made. Forgive me if I try again.

I take for granted the completion of the classification process by the Public Service Commission and I take for granted the acceptance of the proposition that occupational categories are the appropriate framework for collective bargaining.

Mr. HEENEY: For bargaining units.

Mr. LEWIS: For bargaining units. I take those for granted. I did not think I needed to point that out. But then once that has been established in the law, what you have now is subparagraph (r) of section 2 which sets out five occupational categories: scientific and professional, technical, administrative, administrative support, and operational. Then it goes on from here and gives the Governor in Council the authority to specify and define any other occupationally related category of employees. When you have looked at that, then go on to section 26. Section 26 then says that the Governor in Council shall—and may I paraphrase—on the basis of the categories set out in (r) of section 2 and on the basis of other occupational categories that it, the Governor in Council, sets up, it defines the bargaining unit. This is what it is. This means that the employer, I suggest to you, in the initial stage is given full and unilateral authority to determine the entire framework for collective bargaining except for the area of consultation on the occupational groups by the Classification Revisions Board. Why is it not possible, taking the occupational categories for granted as I have said, to provide that the organizations concerned in these immediate, initial stages are given the opportunity to pronounce upon the government's proposals. May I say, Mr. Chairman, again to explain, this is a reverse of my experience ordinarily, let me tell you, because all the labour relations acts across Canada with which I am familiar provide that the initial definition of the bargaining unit is made by the union. When it makes application for certification it defines the bargaining unit it desires. Then, it is the employer that comes in and say no, this is not right—

Mr. HEENEY: And the board which determines it.

Mr. LEWIS: And the board which determines it.

The complexity of the public service situation, fully appreciating that the employer in this case is the only one really able to give the guidelines, as a start in my suggestion I have reversed the process. I say give the employer the first responsibility and duty and opportunity to define the bargaining units which it considers appropriate, but, before they become frozen, give the organizations concerned an opportunity to express themselves on the desirability of the bargaining unit proposed, and an opportunity to be heard on them. Then, it seems to me, you start your collective bargaining process on a proper basis, not by unilateral decision of the employer, but by the participation of the employee organizations as well. I think it is possible to work out a timetable for the

exchange of information and so on that would avoid the delays that you, Mr. Heeney, suggested.

Perhaps I have made myself a little clearer this time. I hope so.

Mr. CHATTERTON: May I ask, Mr. Lewis: All these employees having been heard, the Board would then make the final, binding decision?

Mr. LEWIS: That is right. If I may complete that, I foresee, with the civil service association and the civil service federation combining into one organization, with their long experience, and with the fact that they represent the overwhelming majority of the employees concerned that in, I would think, 80 or 90 per cent of the cases they would simply write to the Staff Relations Board and say, "We see no reason to contest the suggestion of the employer," and certification would issue within a week. I think it would speed up, rather than slow down, in those cases. I can imagine that in 10 or 20 per cent of the cases, there would be some genuine differences of opinion. They would take a little longer.

I think this is the kind of approach I would favour, so that the organizations would have a say in the framework of the collective bargaining unit.

Mr. ÉMARD: As a matter of clarification, I would like to know if all the associations representing employees in the different operational groups would bargain together? What is meant by "The Governor in Council shall specify and define the categories"? Does that mean that only one body, only one union, would have a chance to represent all these employees in the operational category?

Mr. LEWIS: It may be a council of unions but it would be one bargaining unit.

Mr. HEENEY: Mr. Chairman, I could answer this question, but I am sure the committee will be going into, in a much better way than I could explain, the way the classification review process is now going, the basic occupational categories and the way they will be subdivided, because Mr. Chairman, for example, the occupational category is being subdivided into smaller units, to a total of 67. Something like what the objective is.

May I make a comment upon Mr. Lewis' further exposition of his point and his anxieties. When he says that this proposal would leave to the sole discretion of the government, of the employer, the determination of bargaining units, he would allow me to say that the proposed bill, as I read it, does fix by parliamentary act the occupational criterion as that upon which the bargaining units must be based. It is all in those two sections, the subsection (r) that he read, the definition of occupational category, and in the provisions of section 26. This is the way it must start. It must be related to occupation.

Of course, it would be desirable, if it were not too great to be accepted, to have views expressed upon the governor in council's determination of occupational groups. I would not be nearly as optimistic as I said in my first attempt to answer Mr. Lewis, Mr. Chairman, that there would not be a great many more than one association in each instance either qualified as having members in a particular occupational category, or anxious, because of their own position and viewpoints, to express views. Indeed, the service is so organized now that many occupations are represented in many associations. The situation will improve if

this unification proposal does come into effect next week, as we all hope it will, because it is a great move forward. I like to think that the operations of the Preparatory Committee, in consultation with the associations and unions have helped toward that end. I am sure they have, and I think the associations would say this.

I am afraid that I remain of the opinion that this proposal that Mr. Lewis has put forward would inevitably entail long hearings by a fresh Public Service Staff Relations Board and a very considerable further delay before these first agreements could be negotiated.

Mr. BELL (*Carleton*): Mr. Chairman, just on that point, so that I understand Mr. Lewis. I believe he is prepared to concede that the Public Service Staff Relations Board must bring this to finality at the hearing.

Mr. LEWIS: That is right.

Mr. BELL (*Carleton*): If that be the case—

Mr. LEWIS: Article (E); that was my suggestion.

Mr. BELL (*Carleton*): Yes, that was your suggestion, and I am not certain that I go along completely with that view; but if that board has the right, what is there wrong with the Civil Service Commission, in fact doing it now, carrying on consultation, as they are doing, and as we learned from Mr. Cook's evidence this morning; because certainly anything that the governor in council is going to specify is going to be something that is on the recommendation of the Civil Service Commission. If that be the case, do we not just assure ourselves that the Commission is carrying on this with due independence, is having consultations with the various unions and associations, and perhaps amend section 26, simply to say that—"the governor in council, upon the recommendation of the Civil Service Commission shall—" and we are in precisely the position that Mr. Lewis would wish but we are perhaps a year ahead. In other words, the final determination has been taken by the Civil Service Commission now, rather than by the Board a year from now.

The JOINT CHAIRMAN (*Mr. Richard*): I would remind the committee that we are engaging sometimes in the hearing here in the exchange of opinions between members of the committee, and I suppose that we should direct our questions more directly to the witness.

What I really wanted to call to the attention of the committee was that it is nearly ten minutes to one o'clock.

Is it the wish of the committee to meet this evening at eight o'clock and continue with Mr. Heeney?

Mr. BELL (*Carleton*): With this witness?

The JOINT CHAIRMAN (*Mr. Richard*): Can you come earlier?

Mr. HEENEY: I am free this afternoon.

Mr. WALKER: Are we on estimates?

Mr. BELL (*Carleton*): We are going ahead with Central Mortgage and Housing.

The JOINT CHAIRMAN (*Mr. Richard*): We might finish this afternoon.

Mr. WALKER: The Speaker is in the Chair.

Mr. KNOWLES: No; we are in Committee of the Whole, with about two hours and a half left to the house's resolution.

The JOINT-CHAIRMAN (*Mr. Richard*): We may as well meet this afternoon.

Mr. KNOWLES: I think if we started at three thirty that would take us to five thirty or six. I think this afternoon would be better than this evening.

The JOINT-CHAIRMAN (*Mr. Richard*): All right. We will meet after Orders of the Day.

Mr. KNOWLES: We will meet then, and not this evening.

The JOINT-CHAIRMAN (*Mr. Richard*): If you wish, we could meet this evening also.

Mr. BELL (*Carleton*): Let us wait till the conclusion of this afternoon's meeting.

Mr. KNOWLES: Mr. Chairman, this afternoon in the house it is a set piece, and we know what is coming, but after that we will be on estimates of various departments, and I think it would be difficult to meet at that time.

The JOINT-CHAIRMAN (*Mr. Richard*): I would have liked to be able to have Dr. Davidson as the next witness as soon as possible.

Mr. WALKER: He will be here if he can this afternoon.

The JOINT-CHAIRMAN (*Mr. Richard*): Do you think we will conclude with Mr. Heeney early enough this afternoon?

Mr. WALKER: Yes.

Mr. KNOWLES: Ask Mr. Lewis.

The JOINT-CHAIRMAN (*Mr. Richard*): I think Mr. Lewis has made his point.

Mr. LEWIS: I would like to ask some more questions.

The JOINT-CHAIRMAN (*Mr. Richard*): I am sure; so that we understand exactly what you are trying to tell us.

Mr. LEWIS: Well, if you have not got it now, I give up.

Mr. WALKER: I suggest that Dr. Davidson, if he can, be asked to be here for the afternoon session.

The JOINT-CHAIRMAN (*Mr. Richard*): Dr. Davidson is tied up this afternoon with the postal union and postal employees.

Mr. BELL (*Carleton*): He is not available this afternoon?

We will meet about three thirty, Mr. Chairman?

The JOINT-CHAIRMAN (*Mr. Richard*): After the Orders of the Day, around three thirty or a quarter to four perhaps.

The meeting is adjourned.

AFTERNOON SITTING

The JOINT-CHAIRMAN (*Mr. Richard*): Order.

Mr. BELL (*Carleton*): Mr. Chairman, I want to change the subject somewhat. I understand that our next witness, or perhaps the next witness after Dr. Davidson, will be dealing specifically with this whole question of classification review, the techniques that have been adopted, the safeguards that are involved in the present procedures and perhaps we might defer questions on this

particular aspect until that evidence has been heard. If we need to recall Mr. Heeney again, on another occasion, we could do so. I would like to go on to another subject.

Mr. LEWIS: Yes; I am finished with the subject. Are we going on without a quorum, Mr. Chairman.

The JOINT-CHAIRMAN (Mr. Richard): I see a quorum. We will ratify it later, unless you have any objection.

Mr. BELL (Carleton): Mr. Chairman, I wonder if I might ask Mr. Heeney if he would elaborate somewhat on what he considers to be the future role of the Pay Research Bureau. This was dealt with in the report of the preparatory committee at Page 41, but I am particularly anxious to have Mr. Heeney's views because I think he was Chairman of the Civil Service Commission at the time the Pay Research Bureau was established and has, perhaps, a very intimate knowledge of its background. What I would particularly like to know from him is whether he thinks there should be embedded in the statute or any one of the statutes, some provision for the Pay Research Bureau and for the utilization of the material which is prepared by the bureau and the terms and conditions under which it might be made available, firstly to the parties and secondly to the public.

Mr. HEENEY: Mr. Chairman, I was associated with the institution of this, I think, very valuable unit in the early days when we were working under a different dispensation and there was no collective bargaining but we were seeking to develop the consultative process and seeking to emphasize the third party role of the Civil Service Commission. It was really in relationship with that that the Pay Research Bureau was established within the Civil Service Commission, with the object of seeking, first of all, the most expert means of providing a base for fair comparison with outside employment and, secondly, seeking to develop data in that area which would be acceptable because of its integrity to both the employer and the employee.

The recommendations of the preparatory committee in this respect, and we did consider it, are contained, as Mr. Bell says, Mr. Chairman, at page 41 of the preparatory committee's report. Our recommendation, first of all as to continuation, was that it should continue. It was argued before us that in the new circumstances contemplated by the major provisions of the report's recommendations, such a unit would no longer be necessary or suitable. We did not accept that view. We thought there was in existence an asset which could be of importance to the operation of the collective bargaining regime and we recommended that it be continued but under the auspices of the Public Service Staff Relations Board. Now, Mr. Chairman, Mr. Bell has touched upon two or three aspects of difficulty in the operation of such a unit and I am sure that some of these are familiar to members of the Committee.

In the early days of its operation we had provided in the Civil Service Commission for an advisory board which would be representative, on one hand, of the treasury board representing the government-employer aspect and, on the other hand, of what were then known as the recognized civil service associations; the advisory board being, just as the name implied, advisory and not executive.

Now, as to how it may operate in the future, first of all, Mr. Bell asked whether it would be wise to make provision for it in the statute. I have no particular opinion on that, Mr. Chairman, but as my predisposition—my own personal predisposition—was to put as little in the statute as necessary and only that that was necessary, I would be quite satisfied myself if administrative action were taken to establish it, but I think it should be under the Public Service Staff Relations Board.

As to the use of its products and as to one of the most important procedures in regard to pay research, as Mr. Bell, I am sure, realizes, has to do with the triggering of the studies, who will determine what studies shall be made. My impression is and it is some time since I thought of this particular aspect of the procedural problem, would be to say that the Public Service Staff Relations Board itself should be the master of the agenda, as it were, of the Pay Research Bureau.

One of the great difficulties which has been encountered, for example in England, in regard to the pay research unit, I think they call it over there, was the enormous blockage of work. Employee associations and the treasury, being the employer in the British case, having so many requests, and very often competing as to their terms of reference, that it was very difficult to order the sequence in which and the power by which the studies will be governed.

This is a very complicated and very difficult situation but my own opinion would be that this must be something which would be dealt with by the Public Service Staff Relations Board itself and be under its authority.

Mr. BELL (*Carleton*): Would you think that an advisory committee of the nature that there has been in the past should also be continued?

Mr. HEENEY: Mr. Chairman, offhand I would think that the Public Service Staff Relations Board, if it is of the composition which is proposed in this bill before the Committee, would itself have those elements important to be consulted. The Public Service Staff Relations Board, having an independent chairman and vice chairman on the two wings, as it were, as representatives of the employer and the employees, I would think that the composition of the Pay Research Bureau advisory board would almost certainly be of the same complexion and I would have thought that the board itself could discharge this function. I am speaking without the book and without having reflected upon this recently, but I thought it would have been all right.

Mr. BELL (*Carleton*): Is it that they would be in a position to lay down the appropriate guidelines for research for the bureau.

Mr. HEENEY: I would think so after it had some experience, yes.

Mr. BELL (*Carleton*): This has been I think, where some problems have arisen in the past in establishing particular guidelines.

Mr. HEENEY: This is perfectly true. It is very difficult, at the best, but I should have thought that we would be best to start off with the board itself assuming, as it were, the balanced point of view of both the employer, employee and the independent element. It might perhaps wish of course, to appoint some advisory group to assist it in that. I am afraid that is about all I can add, Mr. Chairman; it is not very precise.

Mr. BELL (*Carleton*): Perhaps I might ask, in the associated field, if you could tell us briefly what you think ought to be the future role if any role at all, for the National Joint Council?

Mr. HEENEY: Mr. Chairman, this is an honourable body and I think it has discharged some important functions over the years since it was started during the second world war, in bringing the government as employer and the associations and employee organizations together. There was, of course, excluded from its jurisdiction from the outset the real core of employee-employer relationships, namely, pay and related conditions, but, given that limitation, it is my judgment that this has been a very helpful organization and I think my opinion is the same as it was when that section of our report was drafted; I would see the National Joint Council having a role in the future in regard to service-wide relationships in general in a kind of—I was going to say, Mr. Chairman, upper house relationship in the problems of employer and employee—a deliberative second sight role with regard to matters which are of general concern, it, of course, being excluded from the particular which the Public Service Staff Relations Board would be dealing with.

We had consultations with the National Joint Council during the preparation of our report. I have tried to remember what we actually said but I think it was along those lines, Mr. Chairman.

Mr. BELL (*Carleton*): I think it was.

I want to move to perhaps a quite different field.

Mr. WALKER: Could we just take a quick look at the composition of the board as it is and would it continue to be the same?

Mr. HEENEY: Of the council?

Mr. WALKER: Of the council. I take it that some of the present members would be in other activities under the legislation.

Mr. HEENEY: We made no comment upon that. We did not regard that as our function, Mr. Chairman, to do so, and I suppose it would depend as to employee representation on how the collective bargaining regime developed. The present membership of the National Joint Council on the employee side consists of those associations which have been granted by the government the check-off privilege. The check-off privilege is enjoyed by the Civil Service Federation and its national affiliate, by the Civil Service Association of Canada, by the Professional Institute of the Public Service and by the Post Office Association. The pattern is obvious, I would think, and, Mr. Chairman, as collective bargaining gets underway, you would have a number of certified bargaining agents; and I would think that if the National Joint Council is to continue, its composition should be looked at quite carefully and I would have thought that the case for its amendment would depend upon developments in bargaining relationships.

Mr. LEWIS: I have a supplementary question. I am afraid I do not know how the National Joint Council is set up?

Mr. HEENEY: By order in council.

Mr. LEWIS: By order in council.

Mr. HEENEY: It is purely an executive creation.

Mr. LEWIS: Under the Civil Service Act or under what authority?

Mr. HEENEY: I do not know whether it was under the Emergency Powers Act during the war. I recall it being done during the war. I never was on it. I do not know the statute under which it was done. It may come under the prerogatives—it has no executive authority, Mr. Chairman, at all. It is purely consultative, but it has been a useful, leading into what we are getting at now.

Mr. LEWIS: May I also ask a supplementary question to an earlier point about the Pay Research Bureau? Is it now the practice of the bureau to give information to the staff associations?

Mr. HEENEY: I do not know, Mr. Chairman, what the present practice is. It has been some years since I was associated with it.

Mr. LEWIS: Mr. Chairman, I agree with the preparatory committee report's recommendations on the Pay Research Bureau. I happen to have had the view for a long time that too much collective bargaining in the country is carried on by way of assertion rather than by any real knowledge of fact. I, therefore, agree very much with the proposition that the bureau be continued and that its findings of fact be made available to both sides.

Mr. HEENEY: My recollection, and I am now thinking of some years back and I am subject to correction as to the present practice, is that data were confidential to those who were represented on the advisory committee. Now, I may be wrong, but those represented on the advisory committee on the employees' side were the "recognized associations", so that the employee's representatives as far as they were represented on that group as well as the employer, had the benefit of the research bureau. In fact, the essence of the idea, or one of the essential elements in the argument for setting up the bureau, was that there should be data on which both sides could rely when they went into discussions.

Mr. LEWIS: How was this set up, Mr. Chairman, by order in council?

Mr. HEENEY: No, it was set up by the Civil Service Commission in the exercise of its administrative functions as a housekeeping one.

Mr. LEWIS: I see Mr. Heeney. So it is purely an administrative operation within the Civil Service Commission.

Mr. McCLEAVE: Under Mr. Diefenbaker, Mr. Chairman.

Mr. LEWIS: I understand that is an irrelevant remark, Mr. McCleave, because the commission is entirely independent and you agreed with Mr. Heeney that it was and I assume it was as independent then as it is now.

Mr. McCLEAVE: That is right. I agree that it was as independent then as it is now and I add my remark, under Mr. Diefenbaker.

Mr. Heeney was the chairman of the Civil Service Commission at the time and I am reminded that this was a recommendation which the Civil Service Commission made to the government of the day and which was enthusiastically accepted.

Mr. LEWIS: The point which concerned me is the point which Mr. Bell was asking about and aiming at: that collective bargaining will suffer a great deal if the pay research bureau does not make the results of its investigation available

to both sides at the bargaining table. For obvious reasons there would be a great deal of suspicion, mistrust, and resentment if that is not the case. How can one make certain—and I agree that it should not go into the act—but how can one make certain that that will be done. Might it be useful for this Committee in one of its reports to include as a recommendation the recommendations made in your preparatory committee's report?

Mr. HEENEY: Mr. Chairman, if I may respond personally to that, and not bind my erstwhile colleagues in the preparatory committee, my view is that it should be made available to both sides of the bargaining process and that this is one of the principle virtues of it, and if—

Mr. LEWIS: You say that in your report, Mr. Heeney, at page 42.

Mr. HEENEY: Thank you for reminding me. My colleagues have agreed with me.

Mr. LEWIS: You say:

In the first case, the Bureau should be required to make the results of its studies available to representatives of both the employer and the bargaining agent concerned.

Then in the second, which is a separate employer situation, you say:

It should be required to make the results available to representatives of the employees concerned.

Mr. HEENEY: Well, I have made the argument before, Mr. Chairman, and I stick to it.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. BELL (*Carleton*): I wanted to change the subject somewhat to a field in which I think, perhaps, Mr. Heeney has almost unique qualifications to advise the committee by reason of his background. That is, the subject of political participation by public servants. I say Mr. Heeney's background is unique because he is a former principal secretary to a prime minister and he has had long diplomatic experience and has been in independent and non-political roles during a very large part of his distinguished public career. I think this is a matter to which the committee is going to have to give a lot of attention. We have had the recommendations of the Civil Service Commission and I would be very much interested to have Mr. Heeney's views, based upon his experience in a political office, as chairman of the Civil Service Commission, in the diplomatic field and as a deputy minister.

Mr. HEENEY: Mr. Chairman, this is a pretty formidable question put by Mr. Bell and I am afraid I really am not very expert. I have served, of course, under governments of both complexions and under prime ministers both liberal and conservative.

I will speak to it, Mr. Chairman, if you wish me to. I will be, of course, expressing only a private opinion.

My basic position is in favour of a large measure of freedom to participate at appropriate levels in government and at appropriate levels in the civil service. It does seem to me that as you get farther up in the hierarchy of the civil service, as you get into the area of policy formation—and the committee will understand what I mean by that—where the relationship of the civil

servant in question is one of competence to his minister in giving advice in the formulation of policy, I think it would be wholly inappropriate under our tradition, which I believe to be a good tradition, for a civil servant to engage actively in politics either by offering himself as a candidate or, indeed, in a less direct way, too. I feel this very strongly, but that is not to say that those in the public service, which has now grown so large and which engages in so many occupations which have no policy content, as it were, should not have an opportunity to participate, certainly, in the local political activities in his own community and the committee might think favourably of even going into the provincial area.

I speak with some diffidence on this. I reiterate that I am only expressing a very personal opinion. Let us take, for example, one of the strong arguments which have been made by public servants now over at least a generation regarding collective bargaining, and that is having no right to bargain collectively has removed them from the ordinary community of Canadian citizens; This is a telling argument. It is one which I think most civil servants have felt, and this is why I have been such a proponent for a long time of the introduction into the public service of a system of collective bargaining, under appropriate circumstances, for the determination of pay and working conditions.

Now, one of the other propositions which I think most civil servants find interesting is that being removed from political activity does again distinguish them from other Canadian citizens and I think, quite rightly, a lot of civil servants rather resent this. I think, perhaps, there is not very much I could add except to reiterate the reservation, which I would make very emphatically, concerning those people who were engaged in the policy making process, and it would be, of course, in some cases very difficult to distinguish between those who are doing this and those who were not subject to that particular—as I regard it—disqualification.

Mr. BELL (*Carleton*): Mr. Heeney, I would gather that your view then would be something along the United Kingdom approach, which has the three-tiered structure.

Mr. HEENEY: Yes, yes.

Mr. BELL (*Carleton*): The level which includes, shall we say, your trades people, your elevator operators, and that type of person, who would have comparatively full freedom. Your top level of policy makers would be under the same inhibitions today but you would have an intermediate group where there would be shading between the two.

Mr. HEENEY: This is right, Mr. Chairman, some means of distinguishing administratively between the two in a fair and impartial manner. I would go one step further, now that you have encouraged me; I would even favour the holding of a job for a person who was offering himself for public duty in a legislative way, provided he was not disqualified by reason of being a policy maker.

Mr. McCLEAVE: May I ask Mr. Heeney a question? I think I agree fully with his remarks on the policy level, but what about the administrative level or where there is enforcement of fisheries regulations, for example, or other federal statutes where there is, perhaps, an element of discretion in the public servant as to whether things are followed up or charges are made or not made.

What about that area which, I think, would be a pretty sensitive one when you get into your small communities, particularly, in Canada. Have you thoughts on that, Mr. Heeney?

Mr. HEENEY: I have not had but I see, I think, Mr. Chairman, the point which is being made. That is to say, there is an element of discretion as to how the existing law is administered which might be affected and might be the subject of controversy between political parties. Is that what you are saying?

Mr. McCLEAVE: Well, that is part of it but another part, if I may raise it in a very theoretical way, is this: suppose you have a fish guardian on a river and whether he takes somebody into court or not—

Mr. HEENEY: Mr. Chairman, this is a very sensitive area. It would be very difficult to legislate that kind of thing, would it not? It would be presupposing a lack of objectivity, perhaps, which one would not want to embody in the statutes. It is very difficult. I do not think I have any further thoughts on that.

Senator CAMERON: Mr. Chairman, does it not come down to this: theoretically every civil servant should have the right to participate in political affairs but in practice it is unrealistic in certain areas, which you have described very well when you segregated the policy formulating officers.

Mr. HEENEY: Yes, I think I see what Senator Cameron means, Mr. Chairman. You mean the proposition that all public servants are on a par with other Canadian citizens in regard to political activity, but some are less equal than others. Is that it?

Senator CAMERON: Well, one might do it that way or go the other way around.

Mr. HEENEY: I think it is better to begin with the statement of the right and then make the exceptions, rather than begin with the exceptions.

Mr. LEWIS: Are not many of the policy makers outside the civil service, Mr. Heeney?

Mr. HEENEY: I am not sure, Mr. Chairman.

Mr. LEWIS: Are not many of the policy advisers or policy makers appointed outside the Civil Service Commission?

Mr. HEENEY: Outside the Civil Service Act as non-permanent servants?

Mr. LEWIS: Is it limited to—

Mr. HEENEY: An order in council appointment outside the operation of the Civil Service Act?

Mr. LEWIS: Exactly.

Mr. HEENEY: I do not know what the present proportion is, but apart from the traditional Crown appointments, who are the deputy ministers themselves, we have almost forgotten nowadays that they are appointed by order in council, so conventional has it become to appoint them from the public service. There are some outstanding and very able exceptions, of course. I was not thinking of the deputy ministers, I was thinking of those who were in the policy formation area of operation and who were operating under the Civil Service Act. I would not know how many we have who are non-Civil Service Commission appointments.

Mr. LEWIS: Maybe you are right, but why should those people be disqualified from political activity just because they happen to be in a position which is concerned with advising on policy. What is there inherent in the position that makes it wrong for them to exercise their rights as citizens to run for office with leave of absence without pay. Are we not mature enough that a minister should accept the proposition that someone under him, or even very close to him, has this right like any other citizen? Frankly, I cannot understand this traditional objection. I cannot see it in logic at all, unless we still have a rather immature approach to those who serve us.

Mr. HEENEY: Our tradition is, of course, British tradition, which is regarded as particularly mature, but that is a matter of opinion. Let me give you an example, Mr. Chairman, of the kind of thing I mean. Let us say an assistant deputy minister is advising his minister on a particular policy upon which legislation is to be based for the House. Now, many assistant deputy ministers have strong opinions and convictions and they give their advice to their minister and they formulate this in memoranda, and so forth, and in due course a decision is taken by the minister with his cabinet colleagues and the government policy emerges in a state white paper or a statement or ultimately in a bill. However, the assistant deputy minister is committed to defend and explain that policy. I think this is essential and it should be done at that stage. If there is a change in government and a minister comes in who has the opposite policy, this assistant deputy minister should be enabled to advise the new incoming minister of the different political complexion and the different convictions and views. He should be completely free to advise him without any inhibition whatever. This calls for the greatest frankness in private between the official and his minister. In public, if your assistant deputy minister has been a candidate for office, his capability to serve his minister, and therefore to serve the state, on a change in government which involves a change in policy is qualified very greatly, if not emasculated. Do I make myself clear?

This is the tradition and I believe it to be a very good tradition. It is not the tradition of the United States; they have a different tradition, and a strong case can be made for that, but I think for our purposes in Canada, with respect to those who are involved in policy advice to ministers, we cannot warrant complete change in our system without involving a very large turnover in the public service at the time there is a change of government.

Mr. WALKER: Mr. Chairman, I would like to extend that. You would say that if conditions of disagreement became so unbearable for a deputy minister who felt that his minister was totally wrong on policy, then the choice is for the deputy minister to enter political life himself and become the minister, if he can.

Mr. HEENEY: The choice for the deputy minister or the assistant deputy minister or an official, if he comes to a point in which the actions of the government are inconsistent with his conscientious convictions, he has only one choice and that is to resign. Whether he takes the next step and moves into political life to fight for his convictions is another matter. I am glad this point was raised because it is something which I think is often forgotten and, contrary to some people's impressions, civil servants have both beliefs and convictions and it is necessary to maintain this part of our situation very strongly. Resignation is the only ultimate course for a self-respecting civil servant.

Senator MACKENZIE: I have a question on a point Mr. Heeney mentioned some time ago, and that is whether there are or should be stated procedures in respect of members of the civil service who offer themselves for election to public office. You casually said they should get leave of absence with pay or without pay. I am just asking whether, in your opinion, this kind of procedure should be pretty clearly spelled out and laid down so there is no dispute about it. There are three categories, and maybe more. There is the candidate for election up to and during the period of the election. Now if he is not elected, that is bad, but if he is elected then there is the problem of the time he may be expected to give to the municipal, provincial or federal office to which he was elected. There is a further possibility of him becoming a cabinet minister. All of these are relevant because I have had to deal with them myself in other circumstances. They are not easy decisions to make but guidelines or procedures laid down in advance are very helpful. Do you have any views on this?

Mr. HEENEY: Again they are personal views, Mr. Chairman. I agree with Senator MacKenzie, I believe that provision should be made with some precision. I understand that the bill before you has retained the old provision, leaving it to the committee to consider what is desirable under modern conditions, which have changed a good deal since that provision was made, and I would think they would have to be spelled out with great clarity. I would hope they would be as permissive as this Committee feels they could make those provisions. I would hope—and perhaps this is going beyond my mandate or instructions, or whatever they are—it would also be an encouragement at appropriate levels and with the exception I have tried to describe, to take part. I think this would be good. I believe Civil Servants have something to contribute and could contribute at the legislative municipal level and perhaps the provincial level too, and I think without impinging upon the efficiency of the service, which must be the first object of a Public Service employment act. Within that limitation their participation in the political life of the country should be facilitated.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me, Mr. Heeney, you mentioned the local and provincial levels but you did not mention the federal level?

Mr. HEENEY: No, I did not but I would not myself exclude it. Mr. Chairman, I have been carried much farther than I really expected to be. However, I am prepared to stand on that.

Mr. WALKER: I have just one supplementary, if I may? You do not think that political activity for a civil servant might penalize him. I am speaking now of the actual things that may or may not happen in a department. You do not think a civil servant—not one who ran as a candidate—who was very active politically in a campaign, criticizing severely, possibly, the government of the day, would be penalizing himself by doing such a thing? I am not saying that if he did penalize himself it would be a good situation. But, you do not think human nature being what it is that he would be penalizing himself.

Mr. HEENEY: Mr. Chairman, I think, human nature being what it is, there would be this risk, of course, and there are only two limitations upon the risk. One is the good sense of the supervisors and those who have authority over him and the other is the good sense of the civil servant himself and the way that he conducted his political activities. But I venture to say, Mr. Chairman, that there

are comparable risks in the private sector, perhaps not as great in total, but there certainly are occasions in the private sector where engagement in political activities would prejudice perhaps the promotion opportunities of individuals.

Mr. WALKER: Or in union activities.

Mr. HEENEY: Or in union activities.

Mr. WALKER: This has happened?

Senator FERGUSON: I would like to ask Mr. Heeney a question. I may have misunderstood him but I gathered he thought that if a civil servant ran in a municipal, provincial or federal election and was elected that he might continue with his civil service job?

Mr. HEENEY: No, Mr. Chairman. What I intended to say was that consideration might be given to giving him leave in order to run. But, if he ran successfully he clearly would have to resign. If he ran unsuccessfully, consideration might be given to taking him back.

Senator FERGUSON: Well you would not necessarily have to resign if you ran at a municipal level?

Mr. HEENEY: No, no.

Senator FERGUSON: But on the federal level there would be too many demands on his time, I should think. I was puzzled by what you said.

Mr. HEENEY: I did not mean that, Mr. Chairman. I meant—

Mr. LEWIS: Leave of absence.

Mr. HEENEY: —leave of absence during the campaign. That is what I had in mind.

Mr. BELL (*Carleton*): We could not have a city council in Ottawa if civil servants elected to it had to resign.

Mr. HEENEY: Quite so, Mr. Chairman.

Senator CAMERON: Mr. Chairman, school boards are probably as good an example as any of giving their employees permission to run. They run on all kinds of tickets and they get leave of absence from the job, without any apparent impairment of their efficiency for any length of time.

Mr. BELL (*Carleton*): Mr. Chairman, I think we should be grateful to Mr. Heeney because, I think he, perhaps, is in an almost unique position to submit advice to us. I wonder if I could question him on another field entirely, when Mr. Knowles has completed his questions.

Mr. KNOWLES: I have a question that perhaps parallels previous questions. If you think I have entered another field, stop me. Mr. Heeney would you care to comment on the parallel situation of highly placed civil servants going out into private business and making use of the intimate knowledge they have gained in certain fields. Is there not a conflict there that is similar to the type of conflict you were describing when discussing politics?

Mr. HEENEY: I am not sure, Mr. Chairman, that it is a parallel. It is a situation of difficulty, I think, and in some jurisdictions provisions have been made in the law. The only law I can think of, offhand, in Canada that is

applicable is the Official Secrets Act where sensitive or classified information is involved. I am told, Mr. Chairman, that there is a provision in the Civil Service Act prohibiting activities which bring the Public Service into disrepute. I was not aware of this but it would hardly cover the situation.

Mr. LEWIS: That would be while he was a civil servant.

Mr. KNOWLES: Mr. Bell, if he does not mind an okay from a New Democrat, commented on this the other day in relation to his position as having been Minister of Citizenship and Immigration. He felt that imposed certain limitations on him when he got back into private practice. I am thinking of citizenship, immigration, customs, income tax, finance and trade and commerce.

Mr. HEENEY: All I can say, Mr. Chairman, is that no provision has been hitherto about this. I think it is one that is worthy of examination, in my own frank personal opinion. I suppose that this occurs outside the Public Service too in that when people who acquire, in the course of employment A, knowledge peculiar to that industry or undertaking, leave that employment and go to another take with them knowledge as well as skills which may add to the capability of a competitor. I suppose that is a difficulty but this is left to standards of private behaviour and so far, in Canada at least, we have never sought to limit the employment of those who leave the Public Service in any way at all. I think, as I said a moment ago, Mr. Chairman, the only limitation at all is that imposed by the Official Secrets Act with regard to classified information.

Senator MACKENZIE: Private businesses do, on occasion, limit this in the contract of employment and also movement from one agency to another, giving an agreement, as it were, not to engage in the same business or trade for a period of years.

Mr. BELL (*Carleton*): In another field, Mr. Chairman, one of the matters that has concerned me has been the provision with respect to the nature of the arbitral award. I reflected this in what I had to say on second reading. In effect, the provision of the bill, and it arises directly from the Preparatory Committee, is that the Chairman is always a majority of one. I confess that bothers me. I wonder if you could give me some philosophical base for this Mr. Heeney, or has it such?

Mr. HEENEY: Mr. Chairman, I am trying to cast my mind back to the process through which our minds went when we made this recommendation. My recollection is that we base ourselves upon British experience and very emphatic British advice from those who had operated an arbitral system for a long time with very considerable success. This is related to the non-publication of the reasons for judgment. There is no formal jurisprudence, Mr. Chairman, in the arbitration decisions of the British arbitrator.

Mr. LEWIS: I beg your pardon for interrupting but that is arbitration of issues in dispute, not arbitration of terms of a collective agreement. I know they do not have the same kind of system.

Mr. HEENEY: No, arbitration upon matters in dispute.

I am speaking though of the arbitral awards on wage and conditions disputes generally. Just a moment until I take council.

I am reminded by the secretary of the committee, Mr. Chairman, that we examine two possible approaches. One was the sort of panel approach and the other was the concept which is more common in North America, namely, the independent chairman, one representative employer and one representative employee. We concluded in favour of the single judgment partly on that basis.

Mr. LEWIS: One of the matters, Mr. Heeney, that has bothered a good many of the witnesses—and bothered some of us—and which, if I remember correctly, also grows out of your preparatory committee's report, is the specific exclusion from collective bargaining; it is stated in two or three places in the bill, but I am looking at subclause (3) of clause 70, exclusions from jurisdiction, Mr. Chairman, of the arbitral award, which really means, if you tied them all together, exclusion from the field of collective bargaining—because they are later excluded from the jurisdiction of the conciliation board as well—of the appointment, appraisal, promotion, demotion, transfer, lay off, or release of employees.

Mr. HEENEY: Yes, I have the point now, Mr. Chairman. This was discussed this morning by the witness who preceded me.

Mr. LEWIS: Every witness, I think, and correct me if I am wrong, because I have not been able to attend all the meetings.

Mr. HEENEY: I am very glad Mr. Lewis has brought this up.

Mr. LEWIS: May I say that no one has disagreed with the proposition that initial appointment should be the sole responsibility of the Civil Service Commission, but why can not any further movement, as it were, within the public service be part of the collective bargaining process?

Mr. HEENEY: I am very glad Mr. Lewis raised this, Mr. Chairman, because I did hear some of the discussion this morning. My view, I think, can be stated quite simply on this. The essential difference between a system of collective bargaining suitable to public employment and that in the private sector, is that the public interest must be preserved, and this is common doctrine, I think, to everybody. And the essence, or some important part of the essence of the public interest, is that which was embodied in the 1918 act, and which we commonly call the merit system. Mr. Lewis has said, Mr. Chairman—and it is common now, I think, to all members of the Committee—that initial appointment should remain within the Civil Service Commission. That raises the question of whether this necessarily implies these other exclusions in subclause (3) of clause 70 of the bill.

Our own judgment in the preparatory committee was that these additions are extensions of appointment. Promotion was discussed this morning in particular. Perhaps this is as good a test case as one could have to examine this. We looked at it very carefully, and we concluded that this was a part of the merit system, and the best that could be done here was to provide two things: firstly, the right of appeal—which I heard criticized from queries this morning—to an appropriate tribunal and, we thought, appropriate in the public service commission and secondly, the ability in collective bargaining to talk about standards of discipline, and so forth. We may be right; we may have been wrong, but it seems to us that if the public service commission is to discharge its duties as the custodian of a system of merit, initial appointment is not the

only element in merit. This carries on in terms of promotion. It would extend further to discharge, demerit because merit includes demerit in our conception, and our feeling was that this should be vested in the third party if it is to play its proper role. This is the essential distinction between what obtains in private employment in the private sector and where the public interest and parliament is involved.

Mr. LEWIS: Again, Mr. Chairman, I fail to see why this position is absolute. Why is it impossible to combine the two? Everyone of us, I think, is for virtue and, therefore, for the merit system. The fact is that if you take out of the field of collective bargaining all of these areas that so directly affect the employees' well-being, you are really limiting the collective bargaining process very materially. Now, why is it not possible to enshrine, as it were, the merit system as the method by which the qualifications of the employee, upward or downward, are measured and decided and include that as part of the collective agreement; then give the right to the organization concerned, to the employee affected, to go through the normal grievance procedure of the collective agreement if the employee feels aggrieved?

Mr. HEENEY: Mr. Chairman, we have the grievance procedure and this is a matter apart. The grievance procedure is provided here in the regulations.

Mr. LEWIS: I appreciate that, but why should this not affect promotions, demotions, transfers, lay offs, and so on, as well as the other.

Mr. HEENEY: Because—and this I am sure is the overwhelming view of organized employees in the public service—promotion and the other steps in the merit system are regarded as of the greatest importance to them, and I would feel that something very important had been lost were the protection provided by the independent public service commission to be removed from everything except the initial stage of appointment. When it comes to disciplinary matters there is nothing to prevent the negotiation of standards of discipline in the public agreement, nothing whatever.

This, I think, was a misconception in the minds of some witnesses before this Committee, Mr. Chairman, if my information is correct. I think that the merit system really holds together here from one into the other. There are areas, I think, where some of these things can be argued, perhaps. I think this was pretty well exactly the way we considered the exceptions should be defined. Again, I say that the great majority of organized employees have been very strong on this. The fear, as Mr. Carson I think, said the other night to be Committee, is the anxiety not so much about the old-fashioned political patronage, but the nepotism and the internal patronage and that kind of thing is still existent in the public service, and the Civil Service Commission's protection is regarded as of great importance.

Mr. LEWIS: I am not so sure, Mr. Heeney, that you are right about the attitude of the civil service associations. I read from page 9 of the Civil Service Federation of Canada original brief, which says in the top paragraph "However, under the provisions of clause 70" to which I directed your attention "an arbitral award may only deal with rates of pay, hours of work, leave entitlements, standards of discipline, and other terms and conditions of employment directly related thereto". There is no provision for arbitration of disputes that may arise on many other items that may be the subject of bargaining.

Whether they had in mind in that sentence the things I am referring to, I am afraid I do not know, but they were worried about the limitations of clause 70.

Mr. HEENEY: There is, Mr. Chairman, an area for the difference of opinion and examination here. All I think that I could add is that in our best judgment this was the best definition. Possibly, in the future, there may be an extension, but the essentials surely are in clause 71, where the subject matter of rates and conditions, leave entitlements and so on, the terms and conditions, are provided as subjects for decision by an arbitral tribunal.

Senator MACKENZIE: I had one point, Mr. Chairman, but it has been fairly well covered by what the witness has said and Mr. Lewis has brought up. So far as I can judge, seniority has a good deal of importance in the minds of a great many members of unions and employed people, and I imagine it must have been given serious consideration. I would think that other things being equal, seniority might play almost a determining role, and if two candidates were more or less equal, the one with seniority might be given preference. But if the decision is to be made by an external body, as I gather it is, this would no doubt be taken into consideration.

Mr. HEENEY: Mr. Chairman, in the commission's administration of the merit system, seniority, of course, plays a very important part in the selection on competition for appointments to positions. It has always given weight. How much weight is a matter of policy in the commission under the present regime. I would expect that in the discussions across the table between the employer's representatives and employee organizations this would be a matter of considerable discussion. The fact that it is excluded from an arbitral award and the arbitration process is not to say that it would not be the subject of discussion and could not be the subject of discussion, and certainly could be included in collective agreements.

Mr. LEWIS: Mr. Heeney, are you sure of that?

Mr. HEENEY: I am fairly sure of that.

Mr. LEWIS: Speaking from memory, that both in the case of the conciliation procedure and in the arbitration procedure, matters which were not in negotiations and matters excluded cannot be part of the conciliation or arbitration. I would say that from the act as a whole, they may talk about it, if you like, but they cannot negotiate on any of these points.

Mr. HEENEY: No; I quite agree with that greater precision in respect of my answer, Mr. Chairman, but it is important, I think—and this is certainly what we anticipate—that the parties—and one cannot emphasize too much the attitudes with which people come to the bargaining table—bargain, to use a traditional expression, in good faith. Then there will be many subjects discussed and even agreed which are not subject formally to the jurisdiction of the arbitral tribunal.

Mr. CHATTERTON: Mr. Chairman, perhaps my question has been covered. I have been in the house since this meeting began. If so, I can look it up in the Minutes of this meeting afterwards. Apart from the negotiable factors, have you considered the question of the commission being the body making the final decision on appeals? I think Mr. Bell raised this.

Mr. HEENEY: I have considered it but it has not been asked of me; I have heard it asked of others. I think this is more a formal difficulty than a real one in fact. I know there have been complaints and criticisms about the exercise of the appellate role of the commission under existing law and the previous Civil Service Commission Act. My own experience of appellate procedures in the Civil Service Commission is that they have been fastidiously fair, but this is an administrator's viewpoint and it may be possibly prejudiced. I do not know where the appellate jurisdiction would otherwise be vested.

If it were to be excluded from the Public Service Employment Act, which you have before you, where would one vest the appellate jurisdiction? I am obviously thinking out loud. The Public Service Commission, under the proposed bill, is the custodian and administrator of the merit system. It provides for appointments; it makes promotions, and has to do with release from employment, lay-offs and the rest of it—the merits and demerits of the whole service is in its custody. Then a decision is made, let us say, with regard to a promotion, and an employee feels, because of his seniority or his greater competence or his veteran's preference or for some other reason, that the wrong decision was taken by the board which has appointed him on behalf of the Civil Service Commission. You know the way the boards are set up. The decision of the commission which has to do with appointments, promotions and so forth is of course, separated from that that has to do with appeals, and although this does not destroy the legal validity of the argument that it is the same person, it is, in fact, different individuals with a totally different set of conscience, and they are reviewing on behalf of the commission whether or not the merit principle has been adhered to in the appointment by one of its boards. All that I can say is that I think it would be a very serious thing to remove this appellate jurisdiction from the Public Service Commission. It would detract from its general authority and responsibility for the merit system, and I do not think that experience, of which there has been a great deal, would give any serious grounds for anxiety.

Mr. CHATTERTON: You mean the appellate provisions.

Mr. HEENEY: That is right. You see, there has been an appeal division in the commission for some time. There is a good deal of experience in this area now. When I was Chairman of the Civil Service Commission I found that when I looked at the appeal proceedings they were scrupulously fair.

Mr. CHATTERTON: I grant you, Mr. Chairman, that possibly there was a real effort made to be fair, and I am sure that was so. But, on the other side, from my experience, there was always a suspicion on the part of the employee that they cannot admit a mistake—because it was the same organization that made the decision in the first place.

Mr. HEENEY: On the other hand, Mr. Chairman, the record shows that there have been some mistakes admitted.

Mr. CHATTERTON: For the sake of the state of mind of the employee, if nothing else. The decision is suspect because it is the same people that made the decision.

Mr. HEENEY: Or that it is under the auspices of the same institution.

Mr. LEWIS: This is the old legal maxim that not only must justice be done, but justice must seem to be done.

Mr. HEENEY: That is right. I would hazard the opinion, Mr. Chairman, that the majority of civil servants have found the appellate procedure to be fair. This is an administrator's answer, you understand.

Mr. CHATTERTON: My idea is different, Mr. Chairman. In many cases there would have been appeals of what employees thought constituted an injustice or unfair decision but they did not bother to appeal because they did not think it was worth while; they said the same people made the decisions. I am not saying they are right but the feeling was there.

Mr. HEENEY: Mr. Chairman, I am sure there are arguments like this, and indeed, a good many were brought to my attention when I was Chairman of the Civil Service Commission. Most of them, on investigation, turned out to be rather old soldier complaints. On the other hand, there is something in justice being seem to be done. This is an argument in favour of a separate appellate organization. But my judgment—and it is only my judgment—is that on balance it is better for the administration, custody and integrity of the merit system for the Public Service Commission to have the responsibility for scrutinizing its own actions, if you will.

Mr. WALKER: Mr. Chairman as a matter of information, does this bill give the appellant the right of being represented by an agent of his bargaining unit?

Mr. LEWIS: Not specifically; it speaks only of the employee.

Mr. WALKER: Who may be appealing.

Mr. BELL (*Carleton*): That is a decision to which we are certainly going to come later. They dropped, in the drafting of this, the specific right of representation.

Mr. WALKER: All right. It might help a lot.

Mr. BELL (*Carleton*): The President of the Privy Council thinks there is a right under this bill now as it stands, but we can argue that out later.

Mr. ÉMARD: Mr. Chairman, if I am correct, with regard to present appeals, the employees have to pay the lawyers fees. Is that right?

Mr. HEENEY: I understand there is no reference in the bill to this. My own judgment, for what it is worth, is that they should be entitled to be represented by their union representative, by their union agent. On the question of a lawyer, Mr. Chairman, I do not know. There is simply no provision and I simply do not know what the practice has been. Certainly there is no provision for public payment of that.

Mr. ÉMARD: There was one case of appeal that I followed quite closely and the employee had to pay his own lawyer's fees which amounted to about \$500. I asked him if he could not get representation from his own association but unfortunately his supervisor, the one who was making the charge, was also the president of the association.

Mr. HEENEY: Yes, this would be awkward.

Mr. ÉMARD: There is something else. Reverting to seniority, the fact that seniority is not accounted for in the merit system may have something to do with negotiations. Mr. Heeney mentioned before that seniority could be discussed during negotiations across the table but because of the fact that seniority

is not accounted for in the merit system do you not think that the employer will refuse to discuss or agree on any clause having to do with seniority?

Mr. HEENEY: It is a factor, Mr. Chairman, in the administration of the merit system. It is one of the factors that is weighed in appointments and promotions by the independent commission which has the power to make the appointment and to make the promotions. Whether in the discussions leading to a collective agreement the particular employer representatives would be willing to discuss the weight to be given to seniority in any particular operational or other unit is a matter on which I do not suppose my opinion is worth anything. I would certainly hope that they would be willing to discuss this and all other relevant matters, even though they were not subject to the ultimate arbitral jurisdiction.

Mr. ÉMARD: I was thinking of seniority in the specific case of lay-offs, where I think it should have a greater bearing. Let us say, for instance, you have a group of plumbers in the operational group, and there is a lay-off; would it be done strictly on seniority or would it be done according to your merit system?

Mr. HEENEY: It will be determined, under this proposal, Mr. Chairman, by the commission. This would be a function of the commission on a demerit system. They would certainly not be held to any seniority or juniority principle on lay-offs. Their obligation or responsibility would be to act in the reverse of the merit principle which operates on appointment or promotion.

Mr. ÉMARD: What about in this case—I picked a particular trade but it could be any trade at all—where all men were plumbers and they all had their licence; they were all in the same grade and they have to lay off a certain number.

Mr. HEENEY: I am reminded, Mr. Chairman, in practice, seniority is frequently the rule by which lay-offs are accomplished in operational classes within the civil service at the moment. There is no reason to think that it would not continue to be. But, it would be in the power of the Public Service Commission to vary that should they, in their judgment, think it required to be varied in particular circumstances. As a matter of practice, though, seniority is often the rule that is followed.

Mr. ÉMARD: Would it be in the power of the union negotiating to obtain a clause on seniority with specific—

Mr. HEENEY: Mr. Chairman, no, not under the present rules.

Mr. ÉMARD: Thank you.

Mr. WALKER: I have just one general question. You are saying that the integrity of the merit system has a better chance of survival under the bill that is before us than if promotions become part of the conciliation process?

Mr. HEENEY: Yes, Mr. Chairman. I think this is basic to the conception of the bill. I would like to add, Mr. Chairman, if you will allow me, that I quite understand many of the criticisms which have been made by witnesses before you from employee organizations and others drawing their parallel from the private sector experience. Of course, this experience is very valuable and has been very valuable to the Preparatory Committee as it has gone about its

studies, where it is relevant. But, I would like to emphasize the point, which the question reminds me of, that this is a different situation, as I am sure the committee realizes, and that when the public interest is involved you have a situation for which you have to make different provision. Now, several of those who have appeared before you have argued persuasively, "Why bother about a new act; let us just go under the I.R.D.I. Act?" Well this, Mr. Chairman, is the first approach one makes when one begins to study this problem. This is the first thing the Preparatory Committee had a go at. But you would have to change the I.R.D.I. Act in so many particulars that the I.R.D.I. Act would no longer be the I.R.D.I. Act in its present form. So what these witnesses are asking for is something which, in my judgment, is quite impossible if you are to preserve the merit system which is only one of a number of reasons.

The second point I would like to make—and I hope I am not wandering too far from the question—is that under the bill that is before you, not as a result of the wisdom of the Preparatory Committee but as the result of the wisdom of others, there will be available to the bargaining agents who are certified, what is really the I.R.D.I. Act method of proceeding. For all practical purposes the second option, which is the option through conciliation to the right to strike is, for all practical purposes, exactly the same as that of the I.R.D.I. Act. The other feature is route A, if I may call it that, the route leading to binding arbitration, which the great majority of civil servants employee associations have told us is what they want.

Mr. LEWIS: Mr. Chairman, I am not being facetious, but I heard the dogma about the public interest being involved which, of course, I agree with. Would Mr. Heeney tell me what major service of industry in the country, in the private or public sector, the public interest is not involved in, whether it is the public service, the railway, General Motors, the Canadian Broadcasting Corporation or, for that matter, as my friend Mr. Knowles suggests, the supermarkets, or the operations of Trans-Canada Pipe Lines. I am asking: Does this blanket phrase, "the public interest", as a blanket often does, blind us to some other things, when, in fact, all essential parts of the economy involve the public interest?

Mr. HEENEY: Mr. Chairman, I am very glad that the word "dogma" has been reintroduced into the proceedings of this Committee, because my attention has been drawn to the report of another witness. I do not resent being referred to as having some responsibility for dogmatic utterances. There is no reason why one should not be dogmatic if one is right, as long as it is not used in what I think is technically called the pejorative sense. Certainly the public interest is involved in many undertakings, Mr. Chairman, which are in the private sector. Of course this is self-evident, if I may say so.

Mr. LEWIS: I thought it was. That is why I asked you.

Mr. HEENEY: But that does not mean, in my judgment, that you can equate employment in the private sector with employment in the public sector.

There is, on my assumptions—which may not be those of Mr. Lewis, Mr. Chairman—an initial difference between employment by the state and employment in the private sector. Then, if I may say so, one goes on and one finds, of course, particularly with the developments of the last 25 years, that the state

has become engaged in many activities which could be conducted—and Mr. Lewis will understand this as well as anybody else—by private enterprise.

On the other hand, there is the relationship of the state as employer, because the state under our system is operated through parliament, through responsible government, and all the rest of it, so that you have a double aspect to the employer. The employer is the employer, but he is also the custodian and protector of the interests of the people at large, including private industry. This means that the relationship between the employer, who is also the government of the country, and the employee is initially different.

You have to go on from there. You say, "Conditions have altered; we are no longer the mere servants of the Crown, dependent upon Her Majesty's grace for our daily bread." Conditions have changed since this, Mr. Chairman, and public servants, on the principle which I tried to enunciate some time ago, should, as far as possible, share all the rights of other Canadian citizens.

What are the exceptions to this? This is the way I think you go at it.

Mr. LEWIS: I agree, Mr. Heeney. As a matter of fact, members of the Committee will remember that I put to a witness before us—not as fully—who argued for the Industrial Relations and Disputes Investigation Act—I am sure I am right in my memory—that there were basic differences in the employer-employee relations in the public service, and expressed the view that I thought that that justified a separate collective bargaining regime.

All I am trying to suggest to you by my question is that this phrase "public interest" should not necessarily lead to the conclusion that in all respects they are different. Of course there is a different relationship, and that is why I tend to favour very strongly a separate collective bargaining regime, assuming that the act setting it up accomplishes that fact.

To take Mr. Émard's example, if you have some plumbers or carpenters, electricians or printers, clerks or typists, and so on, working for the government, the initial relationship is a different one because of the government's responsibility to society as a whole it being the state.

Nevertheless, there are conditions of employment, are there not, affecting them exactly similar to the conditions of employment affecting the rest of the working population in Canada. I merely suggest to you that we not use the phrase "public interest" to blind ourselves to the areas where they are in the same situation, even though the employer is in a different relationship.

Mr. HEENEY: Mr. Chairman, in response to that, I could not have expressed better myself what my own philosophic approach is to the problem before the Committee.

Mr. LEWIS: I will not ask you any more questions, so that we end by agreeing.

Mr. ÉMARD: There are certain differences, too, between a private employer and the government. First, there are many industries supplying the same service; and, also, the private employers have a right to lock out, which the government does not.

Mr. HEENEY: Mr. Chairman, under the existing law I am not sure that the government does not have the right to lock out, but that is a matter of some doubt among the legal authorities.

Mr. ÉMARD: But it would be very difficult for the government to do, being the only supplier of this service.

Mr. HEENEY: This raises the question of safety and security, as it is called, in the bill before you, which is another great area, of course, of considerable difficulty and delicacy.

Mr. HYMMEN: Mr. Chairman, I think we all appreciate Mr. Heeney's appearing as a witness today. I do not want to delay the Committee, and I really do not want to backtrack, but there is one thing that is bothering me.

There are two things which have come up repeatedly; one matter is the course of procedure, whether arbitration or strike, and the other one is Mr. Lewis' question. Mr. Lewis said that while he agreed, as most of the associations and unions agreed, with the right of the Civil Service Commission to appoint, he had some difficulty in being convinced that the other matters of promotion, demotion and transfer should not be in collective bargaining.

I have given a great deal of thought to this, and I am having equal difficulty in being convinced where this hard line is between appointments and the other matters, because I think that in the very appointment itself there has to be some consideration regarding promotion of other employees. This is my problem. I wonder if Mr. Heeney could help me out on this?

Mr. HEENEY: Mr. Chairman, there is difficulty here, of course, in the different elements of what I regard as the package of the merit system. I regard these as being connected, essentially, one with the other. It is all part of the system of competition—the idea that merit and merit alone will be the criterion by which people are promoted and get on in the service, or are let out if they do not have the essential qualities.

There is one other element in the situation, which I have just been reminded of, and that is that the area of competition, as far as the public service is concerned, is very difficult from that of the area from which appointments are made outside—the whole country.

I think it is accepted generally, Mr. Chairman, that it is desirable that the public service of Canada should be broadly representative of Canadians from the Pacific to the Atlantic. Here is another differentiation, where the Civil Service Commission's independent viewpoint, or vantagepoint is of great importance; otherwise, it might become quite unbalanced.

I do not know whether that helps.

Mr. HYMMEN: That is, more or less, my feeling.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, Mr. Heeney. We appreciate very much your great contribution once again to the Committee.

Mr. HEENEY: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): Our next witness would be Dr. Davidson, but it is 5.30. Shall we return this evening instead of tomorrow morning?

Mr. KNOWLES: Unless something has happened—and there has been no message from the House—the House is still on the housing motion now; but

starting a little after seven o'clock this evening we will be on estimates which some of us are interested in.

There is another problem for some of us about tomorrow morning. The health and welfare committee is meeting tomorrow morning at 10.00 a.m. to produce the report on birth control.

The JOINT CHAIRMAN (*Mr. Richard*): I think it would be a good idea if we could have Dr. Davidson this evening. Do you wish the Committee to go on this evening?

An hon. MEMBER: It is just 5.30. Can we not spend an hour with Dr. Davidson?

The JOINT CHAIRMAN (*Mr. Richard*): Now, wait a minute, before you venture—

Mr. KNOWLES: Dr. Davidson says he would like to get up there now so that I can ask him my questions.

The JOINT CHAIRMAN (*Mr. Richard*): To sit this evening would be a good idea, because we could probably finish with all the witnesses this week and start next week—

An hon. MEMBER: Let us try to sit tonight at eight o'clock.

The JOINT CHAIRMAN (*Mr. Richard*): We will hold a meeting tonight at eight o'clock. Is that all right?

Some hon. MEMBERS: Agreed.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I now call the meeting to order.

We have Dr. Davidson with us this evening.

Mr. KNOWLES: Mr. Chairman, my question relates to a detail but I think it is an important matter of principle and I would like to discuss it with Dr. Davidson. He has had plenty of warning and I have usually found Dr. Davidson ready, if he has not been warned.

It is a question which I asked Mr. Carson the other day concerning what struck me as an omission from the Public Service Employment Act which is to replace the Civil Service Act. The omission is the section that is in the old Civil Service Act relating to parliamentary staffs. It appears in the present Civil Service Act between a section dealing with ministers' staffs and a section dealing with other public officials. Those are clauses 37 and 38 in Bill No. C-181. But as I said, the section dealing with parliamentary staffs is not in this bill. Mr. Carson made one or two interesting comments but he did not wish to proceed with it because he said it was not his responsibility. He did agree that I had drawn attention to a vacuum. I suggested that I would like to discuss it either with Mr. Benson or Dr. Davidson.

Mr. Chairman, I recognize that like motherhood, the merit system and a few other things around here, we speak very highly of the supremacy of parliament, and on the basis of that apparently we have through the years

maintained the right of parliament to employ its officials and other employees on a completely independent basis. Therefore, there has been a rule up here on the hill that the Civil Service Commission stays out except for the odd bit of advice and for statistics to be used for comparative purposes. But it strikes me that by leaving out of this bill and out of all the other bills any reference to parliamentary staffs, we are in effect making no statutory provisions with respect to the rights of employees on parliament hill.

I recognize that the Internal Economy Commission acts as the employer; I think there are interesting relationships between that body and the Treasury Board. After all, some of the same people on one are on the other, but at any rate there is the employer, the Internal Economy Commission; but apart from references to that commission in the Senate and House of Commons Act, we lay down no statutory provisions. It strikes me, Mr. Chairman, that what we are doing by this is passing a law which institutes collective bargaining in the public service but does not provide for collective bargaining for our own employees. There is a strong word I could apply to it, but I do not think we should leave it this way.

Mr. Carson said to me the other day that he would expect me to be the first to defend the rights and the supremacy of parliament, but even parliament exists by the virtue of law and I do not think we should put ourselves outside of the law.

Now, supposedly I am asking Dr. Davidson a question and I am: What do you, Dr. Davidson, think about the omission of this reference in this act? Are we in the position that we are making no statutory provision regarding our own employees? Could we not do something about it?

Dr. G. F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, I think the simple answer to Mr. Knowles' question, the last part of it in particular, is that by omitting any reference to the question of parliamentary staffs in the various enactments we are, in fact, making no provision for parliamentary staffs. From some points of view I suppose it could be argued that what requires explanation here from the strictly constitutional point of view is why this provision was inserted in the old legislation rather than why it is being omitted from the new legislation.

My reason for saying that is that we proceed from the premise that parliament is supreme. Parliament has authority to take any action that it chooses to take. Therefore, the mere act of inserting in a particular piece of legislation a particular provision which seems to suggest that the authority of that provision is necessary to enable parliament to take the action which that section authorizes parliament to take, raises by implication some doubts in some peoples' minds, perhaps, as to what authority parliament has in the absence of a clause of that kind.

The correct interpretation of the position, as I understand it, is that whether this clause appears in the legislation or not, parliament by a joint resolution of the House and Senate or by other appropriate parliamentary action can take any action that it wishes with respect to its own employees. It can decide to place its employees under the provisions of the new Public Service Employment Act in part or in whole. It can, if it so decides, grant collective bargaining rights to its employees, either under a separate regime or by some decision taken by parliamentary resolution to place the employees of parliament

under the provisions of the new collective bargaining bill in whatever posture it wishes to place them. It can grant those rights to its employees as a part of the employee group that is dealt with by Treasury Board as the employer, or, perhaps, as a separate employer under the provisions of the law that provides for the establishment of separate employers,—in which case possibly the Commissioners of Internal Economy might be regarded as the separate employer for purposes of collective bargaining with parliamentary staffs.

My point is, that the inclusion of a clause of this kind in the legislation is not necessary to give parliament the authority to do as it sees fit with respect to the granting of collective bargaining rights to its own employees. The absence of this clause in no way affects the authority of parliament to do as it sees fit.

Finally, it may perhaps be added, not as a real argument, but as a further consideration in prompting the omission of this clause, that this has been on the statute books in the present Civil Service Act since 1961, and parliament has, in fact, never exercised the responsibility or privilege which is set out in this particular existing section. This raises the question whether there is any real value in including in the new legislation a provision authorizing parliament to do something which it already has the authority to do, but which, despite the fact it has the authority, it has never done anything about. I think that is the explanation I would give as to why this is omitted. Its omission or inclusion really adds or subtracts little, if anything.

Mr. KNOWLES: Mr. Davidson, that explanation is understandable and constitutionally nice if one looks at it from the viewpoint of parliament. As you say, we have the authority, we are supreme, we do not need to tell ourselves what authority we have. But, as suggested, it does not look quite so attractive from the standpoint of the employees. To say that we have the right, whether it is there or not, may be true. But, so far as the employees on parliament hill are concerned they do not have any rights unless they are spelled out in the legislation. My whole point is that in this legislation, the combination of these three bills, we are spelling out the rights of the employees of the government and bear in mind they are employees of Her Majesty.

Mr. DAVIDSON: But not of the government.

Mr. KNOWLES: I would think in terms of circumscribing rights, it is even more significant to say they are employees of Her Majesty. Yet we are saying that as against Her Majesty these employees have certain collective bargaining rights. But in the case of the employees on the hill we make no such provision. It seems to me that it is a vacuum we ought to fill. Maybe, the place to fill it is not in the public service act in the way that it was in the Civil Service Act but it does seem to me that it should be either in Bill No. C-170, in the bill respecting the Treasury Board or in the bill respecting the powers of the Internal Economy Commission. As I say—I am sorry to be repeating myself—from the standpoint of parliament we do not have to tell ourselves what powers we have got, we have them, but unless they are written out we are not going to act on them and there are no rights spelled out for employees. I feel that this Committee, Mr. Chairman, should be taking action to recommend that somewhere along the line the principle that we are enacting for public servants generally should be extended to the direct employees of Parliament itself.

Mr. HYMMEN: Mr. Chairman, I would like to ask a question which perhaps Mr. Knowles or Dr. Davidson could answer.

The JOINT CHAIRMAN (*Mr. Richard*): Just a moment please, Mr. Émard is next.

Mr. ÉMARD: Actually my subject has already been dealt with by Mr. Knowles except for a while I was confused. I heard parliamentary staff mentioned and I did not know he was speaking of the employees of the House of Commons. I am of the same opinion, and I have always been very surprised that the employees in the House of Commons do not even have a grievance procedure. They have nobody to report to; they have no organization whatsoever and I think something should really be done and I do not see a better time than at present, as Mr. Knowles suggested. How it is going to be done I do not know exactly, but it seems that this Committee would be the simplest way to do it. I would certainly be willing to collaborate.

Mr. BELL (*Carleton*): Mr. Chairman, I agree that in this situation there must obviously be a technique whereby the parliamentary staffs should be brought under provisions equivalent or similar to those which are in Bill No. C-170. This problem arose when an earlier committee was dealing with the Civil Service Act back in 1960 and 1961, and the technique adopted by the committee then was to seek the approval of the two Speakers to have the Law Clerk of the Senate and the Law Clerk of the House of Commons come before the committee at an appropriate time and suggest the proper constitutional technique of bringing the parliamentary staffs under circumstances that are reasonably equivalent. I venture to suggest that that would be our proper technique now, that as a Committee we say we want to see the staff which serves parliament given every right which is equivalent to what is proposed under this legislation and will the two Law Clerks get together and tell us how to go about doing it. Whether it be by resolution or sections in the bill matters not. Let it be up to them.

Dr. DAVIDSON: Mr. Chairman, perhaps I might be permitted to merely observe at this stage—I am sure this is understood by members of the Committee—that the decision to leave this out was not in any way intended as a decision to influence this Committee to deprive the members of the parliamentary staff of any rights which parliament might wish to accord to them. It was, perhaps, an excessive concern that from the point of view of the Treasury Board we should not appear to be staking a claim, from the employer's point of view, to jurisdiction over the members of the parliamentary staff. It is for parliament, so far as we see it, to decide it wants what to do with respect to the granting of rights to its own employees under both the Civil Service Act and the Public Service Employment Act and the new collective bargaining legislation.

Mr. KNOWLES: May I just interrupt to ask whether that would be unadulterated evil, for the Treasury Board to have something to say about it. Let me give an example,—I used rather freely the phrase “employees on the hill”—of the elevator men that take us up and down. The elevators in these buildings where we still have them, are run by Department of Public Works employees. They would come under these other provisions and I suppose I could go around

and find out. But what is the difference between the elevator operators who take us up and down from floor to floor and the messengers?

Mr. DAVIDSON: Mr. Knowles, the words you used were the first intimation I have ever heard that it is not always unadulterated evil to have the Treasury Board connected with anything. I thank you for that implied compliment, if it was one.

Mr. HYMMEN: Mr. Chairman, I have a specific question, and with all respect to Mr. Knowles and some of the others who have been here many, many years, we are talking as far as I am concerned in intangibles. What specific employees and how many employees are you talking about? I am not trying to minimize the problem; I am only trying to get the problem correct in my mind.

Mr. BELL (*Carleton*): At least 1,500.

Mr. KNOWLES: If you look up to the *Votes and Proceedings* of last Friday, when the rates of pay were increased for them, you will find the list.

Mr. BELL (*Carleton*): With respect, I think the only way we can get this settled on the basis of the constitution is if, with the approval of the Speaker, we instruct the Law Clerks of the two houses to come forward with a proposal.

Mr. KNOWLES: I would be quite happy with that.

The JOINT CHAIRMAN (*Mr. Richard*): As you will understand, Mr. Knowles, I am not an expert in this, but I must say that I think you would have to have an amendment to Senate and the House of Commons Act if you were going to do anything like that.

Mr. KNOWLES: Granted, Mr. Chairman, but we have before us legislation and an omission has been noted. It would be perfectly within the terms of reference of this Committee to make a recommendation. The government might still have to act on it, because of the monetary angle to it, but it is perfectly within our power to make the recommendation.

The JOINT CHAIRMAN (*Mr. Richard*): And also amend the acts which relate to the House of Commons and the Senate. That is a problem, but it could be included in the recommendations at a later date from members of the Committee.

Mr. ÉMARD: Made at this stage in the procedure?

The JOINT CHAIRMAN (*Mr. Richard*): I do not know. This is not the time to make a recommendation.

Mr. KNOWLES: I would say the time to do it, Mr. Chairman, is when we get to the point where we are talking about our report.

Mr. WALKER: Dr. Davidson—

Mr. BELL (*Carleton*): Have we agreed we are going to get the Law Clerks or, is Mr. Walker.

Mr. WALKER: I would like to think about this a little more. I was wondering Dr. Davidson, if you agree there are some other groups in the civil service, besides the House of Commons staff, who are more essential to public safety and security who have, through this legislation, been given bargaining rights and the choice of the right to strike as opposed to arbitration?

Mr. DAVIDSON: Well I—

Mr. WALKER: Actually the key here is who are more essential to public service and safety—

Mr. DAVIDSON: Than the staff of parliament?

Mr. WALKER: —than the staff itself and, yet we have given those people bargaining rights.

Mr. DAVIDSON: I do not think the question of safety and security really enters into it, Mr. Chairman, if I may say so. I think the whole question here is the relationship of the executive, and the employees over whom it has control, to parliament and the employees over whom parliament has control. The point of view was taken in the drafting of this legislation that it was appropriate for the legislation to cover the employees over whom the executive has control, in one way or another and, that parliament should be asked to give to the executive's employees full bargaining rights as contemplated in this legislation; but that it was really for parliament itself to decide with respect to its own employees, what it wished to do. Coming back to your point, Mr. Walker, I see no considerations of safety and security entering into the decision that will have to be taken as to whether the staffs of parliament are to be given the right to bargain collectively or not.

Mr. KNOWLES: Yes, but sometimes it is not a pleasant place in which to work.

Mr. DAVIDSON: Parliament may wish to consider what its own posture will be in terms of granting the right to strike to its own employees, thereby paralyzing the processes of parliamentary government; but that is a question that Parliament will have to consider itself, as it will likewise have to consider whether it is going to recognize the right of the Senate to bargain separately with its employees and the right of the House of Commons to bargain separately with its employees. There is a separation of jurisdiction at the present time over these two groups of employees, which is rather jealously guarded, as I have had occasion to discover.

Mr. BELL (*Carleton*): Could you describe the occasion on which you discovered that, Dr. Davidson.

Mr. DAVIDSON: On more than one occasion.

Mr. WALKER: You made a point about parliamentary control. In fact, ultimately, there is parliamentary control even over the groups that are embodied in this legislation. Where does the problem end up for parliamentary action?

Mr. DAVIDSON: In the final ultimate sense that is true.

Mr. WALKER: So parliament indeed is exercising or, it is conceivable that parliament will exercise control over more than just the parliamentary staff?

Mr. DAVIDSON: I think that it is well to go back to first principles and ask ourselves what it is we are trying to accomplish here. Parliament is trying to legislate in respect of the employees of the government of Canada; that is what it started out to do. Because it was not altogether satisfied, in 1918, and in earlier years, to leave the question of appointment and tenure and all that goes

with the recruitment and employment in the public service in the hands of the government of the day, for reasons of which all members of this Committee are aware,—because parliament was not content to do that, parliament established a Civil Service Commission to act as the guardian of the merit system with respect to the employees of the government of Canada, not with respect to the employees of the parliament of Canada. That was stage one.

Stage two comes along and, Parliament is now deciding, in terms of the present legislation before it, that it does not like to continue the practice by which the government of Canada has the unilateral right to make decisions with respect to wages and working conditions for its own employees. Therefore, parliament is imposing on the government of Canada by this Bill the obligation to bargain collectively with the government of Canada's employees. That is one thing; but it is quite a different thing for parliament to decide—as it is the right of parliament obviously to decide—what it is going to do with its own employees. Is it going to reserve to itself the right to recruit its own employees? Is it going to trust the government of the day to recruit parliament's employees, something which it does not trust the government to do in the case of the government's own employees? Or, is it going to trust the Civil Service Commission to recruit and promote and deal with the recruitment problems of parliament's own employees, as it is prepared to trust them in the case of the government employees? What is it going to do in the area of collective bargaining? Is parliament going to say to Treasury Board: We authorize you, as the employer's representative, to deal in the collective bargaining context with our employees. Parliament has to consider how far it wants to go and what machinery it wishes either to create or adapt to its own requirements. We have faced all along, as Mr. Bell knows when he was a member of the Treasury Board, the problem of recognizing that Treasury Board has no jurisdiction with respect to the establishment of rates of pay or the conditions of employment over employers of parliament. This is a matter that is dealt with exclusively by the Commissioners of Internal Economy. Treasury Board is under the obligation, in framing the estimates at the beginning of the fiscal year, to accept what the Commissioners of Internal Economy have laid down as the rates of pay, the working conditions and the salary costs and so on and include it in the budget as presented in the estimates annually, without presuming to subject that particular set of estimates to the same critical scrutiny that we have no hesitation in doing in the case of government departments that come under our jurisdiction.

This is the essence of the problem. I assure the members of the Committee that I am without instructions as far as the government is concerned as to the government's attitude with regard to parliamentary staff but that this is really a matter to which the members of parliament who are represented here will have to give attention and make up their minds as to what, if anything, they wish to do about it.

Mr. KNOWLES: We are already doing something about our employees, are we not, in the provisions we have made for the Commissioners of Internal Economy. It is not pure caprice under which people come to work on the hill. The Commissioners of Internal Economy engage them for us and set the rates of pay, and at the present time that is done unilaterally. As I said earlier this evening, what bothers me is that we are now deciding by legislation, we

parliament, are deciding that settlement between the Treasury Board and the government's employees shall be made on the basis of collective bargaining, but that the settlement between the Internal Economy Commissioners and parliament's employees will still be on a unilateral basis.

Dr. DAVIDSON: Parliament does not deal at the present time with its own employees within the framework of statute law.

Senator MACKENZIE: Mr. Chairman, I think Mr. Bell is right in suggesting that this is a matter we could talk about with great interest all evening, but it is one which we do not have jurisdiction over at the moment other than perhaps if we care to later on to refer it to the Speakers and the Law Clerks of the respective houses.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, did you have anything to say on this?

Mr. WALKER: I have a third question, to bring the problem right down to every member who is sitting on this Committee. Are we prepared as members of parliament to trust the Civil Service Commission to hire our own secretaries for us?

Mr. KNOWLES: This is not the issue.

Mr. WALKER: Yes, it is. They are House of Commons staff. If you are going to go all the way down the line, then let us—

Mr. BELL (*Carleton*): If you are going to do that, then you had better decide whether parliament is going to turn its prerogatives and its privileges over to an independent body, whether that independent body be the Treasury Board or the Public Service Commission or not. The actual issue we are confronted with tonight, I venture to suggest, is whether parliament will bring itself under provisions which we are deciding upon for the government of Canada.

Mr. KNOWLES: With respect to Mr. Walker's terms, the issue is: Do we pay our secretaries rates of pay which we set unilaterally, or do we grant them collective bargaining with us?

Mr. WALKER: I was just pointing out that—

Dr. DAVIDSON: With all due respect, it is a broader question than that, Mr. Knowles.

Mr. BELL (*Carleton*): It is the whole question of privileges and prerogatives of parliament; that is why we have to get the constitutional advice of the Law Clerks.

Dr. DAVIDSON: That is right, Mr. Bell, on the one hand. On the other hand, it is the whole question of all factors entering into the working conditions of the employees of parliament, including recruitment. It does, by implication, involve the decision whether you are going to trust the Civil Service Commission or somebody else, or, reserve for yourselves as individuals, the prerogative of deciding whom you are going to hire and whom you are not going to hire.

Mr. WALKER: As members of Parliament are we willing, with our own secretaries—I am going to bring this down to personal cases—are we willing to have a grievance procedure with our own secretaries, and all the rest of them.

Are we willing to give this sort of thing up. This is all part and parcel of what we are talking about. Are we willing to give up the right of being employers ourselves as members of parliament—in this one instance—with secretaries.

Mr. KNOWLES: If deputy ministers are in that position why should we not be.

Dr. DAVIDSON: We are organizing a union, Mr. Knowles.

Senator CAMERON: There is one interesting observation in connection with it though and that is that the salaries—the pay—to the secretaries, as a concrete example, are higher in general than they are in private sectors.

Mr. BELL (*Carleton*): They are determined by a resolution of the houses.

Mr. ÉMARD: What would happen at present if the employees of the House of Commons decided to join a union. Would they be contravening the law?

Dr. DAVIDSON: That is one of those questions that you will never get a satisfactory answer to, Mr. Émard. We have several pages of opinions from the Department of Justice. Of course, there is nothing to prevent any employee of the public service, in so far as I know, or any employee of parliament, from joining a union. To argue that he could not join a union would be to deny him the right of freedom of association. But, having joined the union, so what? The effective result of joining a union in logic is that, in having joined a union, the union is able to establish itself as a bargaining agent and bargaining collectively with the employer. Until such time as parliament is prepared to recognize the right of the employees to bargain collectively with their employer the fact that they are members of a union does not accomplish as much as one might infer from saying that they can become members of a union. I am sure that there are members of the parliamentary staffs now who are members of unions.

Mr. ÉMARD: Let us leave aside the collective bargaining. Could not the employees have members—representatives of the union—act for them on grievances for instance—represent them on grievances—take their grievances to parliament?

Dr. DAVIDSON: Mr. Chairman, there are always channels open by which grievances can be aired either by putting them into the hands of individual members of parliament who will listen, or by some form of petition to parliament itself. But a grievance procedure in the formal sense is not available to the members of parliamentary staffs at the present time unless by the decision of the Speakers of the House of Commons, or Senate each Speaker has made his own internal administrative arrangements for a grievance procedure to be established.

Mr. KNOWLES: Mr. Chairman, in all fairness, and I think it should be said in fairness to Mr. Speaker Macnaughton and to Mr. Speaker Lamoureux, that such an arrangement has recently been developed. Perhaps, some members are not aware of it. As Dr. Davidson pointed out, it is something out of the goodness of the Speakers' hearts.

Mr. BELL (*Carleton*): It is an act of grace.

Mr. KNOWLES: It is an act of grace rather than a right. It is an improvement over what used to be and I think those two Speakers I have named

deserve credit for it. However, I agree with what Senator MacKenzie and Mr. Bell have said and if you will accept the motion I would be glad to move that these Speakers be asked to—

The JOINT CHAIRMAN (*Mr. Richard*): Before you put the motion, Mr. Knowles—

Mr. KNOWLES: I beg your pardon?

The JOINT CHAIRMAN (*Mr. Richard*): Is it necessary that we should do this before we come to the problem at a later date?

Mr. BELL (*Carleton*): Do you not see the problem staring us right in the face and does it not require study?

The JOINT CHAIRMAN (*Mr. Richard*): I am not saying that it is not a problem. I have been here long enough to understand the problem but, I am thinking, when would you want to bring the Clerk of the House of Commons or the Law Clerk of the House of Commons and the Senate here? At this time or at the time when we are looking into the particular problem at a later date, during the study of the bill.

Mr. KNOWLES: It could be during the study of the bill.

The JOINT CHAIRMAN (*Mr. Richard*): I understood that this was an immediate problem. You would not want to delay the clause by clause discussion.

Mr. KNOWLES: I am not suggesting that it be done before we proceed with the clause by clause of the bill.

The JOINT CHAIRMAN (*Mr. Richard*): If it is the wish of the Committee, then it is up to the Committee to decide. We will put the request to the Speakers and we can get the answer from them.

Mr. KNOWLES: I move that the two Speakers be requested to make their Law Clerks available to us at an appropriate time for discussion of the issue of parliamentary staffs.

The JOINT CHAIRMAN (*Mr. Richard*): Is that the wish of the Committee?

Mr. WALKER: No, I would like to speak to this. Again, it is a different situation with this particular group. If the two Law Clerks are here giving us whatever information we need, I would not know if they are speaking on behalf of staff, or on behalf of management. Surely, they would not be the only ones we would want to hear if they are presenting this problem. There is in fact no organization to present the case of the employees, the employees who may be, although I doubt it, totally contented and much happier exactly the way they are now.

Senator MacKENZIE: Gentlemen, I think the Law Clerk should only be concerned with the constitutional questions.

Mr. BELL (*Carleton*): That is all, the legal aspects of it, how do we go about the legal aspects of it?

The JOINT CHAIRMAN (*Mr. Richard*): If you read the House of Commons Act which I have here before me it is very clear that, if there is a wholesale amendment to be made, the powers are there—the Speaker and the Committee;

and even the grievances are settled by the Speaker, etc.; so that there is a whole legal problem to be untangled before you could—

Mr. BELL (*Carleton*): I think we should assure Mr. Walker that no one has any desire suddenly to confront him, in the carriage of this bill, with some problem. Actually, what we are seeking to do is to sort out the constitutional difficulty—lay it out clearly in front of us so that we know what can be done. Once we know the constitutional position we can then decide, if I may say so, whether we want to put the Commons and the Senate staff in a position of exact equivalency with all other employees of the Crown.

An hon. MEMBER: Do we not have a director—

Mr. BELL (*Carleton*): He is the only one that we are asking: He is the only one; not the Speaker, or—

The JOINT CHAIRMAN (*Mr. Richard*): Order, Order.

Mr. BELL (*Carleton*): We are taking the suggestion, out of courtesy, that the two Speakers be asked to make available their law clerks. We cannot call them. We have no right to call a law clerk. We have to approach it this way.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order. As a matter of fact, we have a motion, but it is in the power of this committee to call the law clerks at any time, in any event.

Mr. BELL (*Carleton*): It is surely a matter of courtesy to ask the Speakers.

Mr. WALKER: Vote on it if you will, but I would just like to issue a warning. It may be a very small point, but if action results from the law officers being here, or other people who may be contemplated as a result of their being here, will this relate to the thing that the committee is seized with at the moment, or does it get us into another area entirely, namely, amendments to the House of Commons Act? If it gets into the House of Commons Act, then I am suggesting that we are just going down a tributary rather than staying with the main problem that is before the committee now.

Mr. KNOWLES: We have a bill before us, providing a substitute for the Civil Service Act, but leaving out a clause that was in the Civil Service Act.

Mr. WALKER: I do not follow that.

Mr. KNOWLES: The bill that is before us, Bill No. C-181, repeals and replaces the present Civil Service Act, but a section that was in the Civil Service Act, regarding parliamentary staffs, has not been carried forward into this act.

Mr. WALKER: But surely the House of Commons Act is still the major part of that. I do not like getting off into another subject of equal importance—perhaps of more importance but at least of equal importance—

Mr. KNOWLES: That is the subject that is before us, collective bargaining.

Mr. BELL (*Carleton*): I suggest that Mr. Walker take us in good faith. Nobody is trying to lead him down any garden path at all. All we want to do is—

The JOINT CHAIRMAN (*Mr. Richard*): Order, order. Are there any other comments on the motion?

Mr. ÉMARD: I would like to take this opportunity to see what could be done about bringing the employees of the House of Commons to the same level of bargaining as we have for the rest of the civil service employees.

Mr. WALKER: In this act?

Mr. ÉMARD: I do not know the legal entanglements in that, but we have to take some means of giving these employees the same rights as the other civil service employees.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

Mr. ÉMARD: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): All those in favour? Those opposed? Carried.

We will proceed with the examination of Dr. Davidson.

Mr. KNOWLES: Could I ask Dr. Davidson one other simple question?

The JOINT CHAIRMAN (*Mr. Richard*): There is just time for one more.

Mr. KNOWLES: Why, in clause 38 of Bill No. C-181, has there been omitted the last line, which was in the corresponding section of the Civil Service Act, namely, the line that declared that the Clerk of the Privy Council, the Clerk of the Senate, the Clerk of the House of Commons and the Secretary to the Governor General were to rank as deputy heads?

Dr. DAVIDSON: Because, Mr. Knowles, that is taken care of by other provisions of this legislation. I think I am correct in saying it is taken care of by the definition of "deputy head" in the Public Service Employment Bill, which prescribes who shall be entitled to be regarded as deputy heads for the purposes of the legislation.

Mr. LEWIS: In the amendments, or the original one?

Dr. DAVIDSON: In the Bill before us.

Mr. KNOWLES: Does it include these people?

Dr. DAVIDSON: Yes. This is why it was regarded as being—

Mr. KNOWLES: This would be a redundancy.

Dr. DAVIDSON: Yes; that is correct. I would just like to check that, but that is my recollection sorry: I am not quite as correct as I thought I was but I am near enough.

Mr. KNOWLES: This is an unusual day, Dr. Davidson.

Dr. DAVIDSON: The correct explanation is that the Clerk of the Senate and the Clerk of the House of Commons and their employees for all of the many reasons that we have been discussing for the last hour, do not come under the Civil Service Act.

Mr. WALKER: Right.

Dr. DAVIDSON: Therefore, it would be if one will forgive the word, a nonsense, to say that they should be deputy heads for the purposes of the Public Service Employment Act, when they and their staffs have no status under that Act. It is the Public Service Employment Bill about which we are talking here.

In the case of the Secretary to the Governor General and the Clerk of the Privy Council they are given the status of deputy heads under this legislation.

Mr. KNOWLES: I am sorry, Dr. Davidson. Did you say that that applied to the Clerks of the two Houses?

Dr. DAVIDSON: No; what I said was that there is no point in saying that the Clerk of the Senate is a deputy head under the Public Service Employment Act if the Clerk of the Senate and his staff have absolutely no status under the Act.

Mr. KNOWLES: Is there any other respect in which a person can be a deputy head?

Dr. DAVIDSON: For purposes of the Financial Administration Act.

Mr. KNOWLES: And do these two have it for the purposes of that act?

Dr. DAVIDSON: That is my clear impression. I would have to check that with the existing Financial Administration Act to be sure; but I am quite certain that is the fact.

If you look at Bill No. C-181, clause 2 (e) you will see a deputy head described as a "deputy head means in a relation to a department named in Schedule A to the Financial Administration Act, the deputy minister thereof, and in relation to any division or branch of the public service designated under paragraph (d) as a department, such persons as the governor in council may designate as the deputy head," and so on. It is under that provision that the Clerk of the Privy Council is designated as deputy head of the Privy Council office, for purposes of the Financial Administration Act. That entitles him to be regarded as a deputy head under this legislation.

Do you follow me?

Mr. KNOWLES: Yes, I do.

Dr. DAVIDSON: The same is true of the Secretary to the Governor General; but that does not apply to the Clerk of the Senate or to the Clerk of the House of Commons, because it is not possible to relate them to the Public Service Employment Act which has no jurisdiction over or application to the Senate, or to the House of Commons, or to their employees.

Mr. KNOWLES: That is what you said a few moments ago, Dr. Davidson, but then you said that, with respect to the Financial Administration Act, it was your clear impression that they were deputy heads. Are you changing that now?

Dr. DAVIDSON: Two of them.

Mr. LEWIS: The Privy Council and the Secretary to the Governor General. There are two groups, one the Clerk of the Senate and one the Clerk of the House of Commons who do not enter into the picture so far as the Civil Service Act is concerned, or so far as the new Public Service Employment Act is concerned. They are not deputy heads for purposes of the Public Service Employment Act because they, and the employees who come under them, have no status of any kind under the Public Service Employment Bill which is before you.

Have I made that point clear?

Mr. KNOWLES: From here on, then the Clerks of the two Houses are not deputy heads except by tradition?

Dr. DAVIDSON: They are not deputy heads for purposes of an act which does not relate to them in any way.

Mr. KNOWLES: Or for any other purpose?

Dr. DAVIDSON: That is a separate question. They could very well be deputy heads under the Financial Administration Act, for purposes of management of the financial affairs of the Senate and of the House of Commons. For example if they were a deputy head under the Financial Administration Act and were not a deputy head under the Public Service Employment Act, they might, conceivably, under the delegation of authorities that is contemplated by the Financial Administration Act, be given delegated authority to act in respect of financial matters; but they could not be given delegated authority under the Public Service Employment Act to act with respect to recruitment, promotions, and so on.

Mr. KNOWLES: Very well.

Mr. BELL (*Carleton*): Dr. Davidson, I have been concerned, and have been wanting to ask for some time, about an analysis of the power of dismissal as it exists under the three bills which we have before us. I raise it now, particularly, because the residual power is under the bill with which we are concerned principally when you are with us tonight.

Would you mind giving us a brief outline of the totality of the power of dismissal as it will exist if these bills should be enacted at law.

Dr. DAVIDSON: Perhaps I could read from a memorandum I have here on the subject, Mr. Bell. It would at least give us, I think, a useful initial starting point:

The purpose of this memorandum is to review the provisions relating to release, discharge and dismissal in the proposed public service enactments, partly as they relate to actions taken for reasons of national security, and to suggest a number of issues that arise in connection with this distribution of the various authorities between the three different pieces of legislation.

Among the general objectives of the bills now before us in respect of this matter are the following:

1. the preservation of the Civil Service Commission as the agency responsible for staffing the service in accordance with the merit principle.
2. the establishment of the Treasury Board as the principal agent for the employer for purposes of collective bargaining and personnel management.
3. the eventual assignment to deputy heads of increased managerial authority on a delegated basis.

Against this background the problem of how to allocate in the law the authority to remove employees from the public service has proved to be a complicated and difficult one, and the solution as put forward in these three pieces of legislation works somewhat as follows:

1. It is contemplated that the Public Service Employment Act, that is the civil service legislation, should vest in the Public Service Commission the

authority to release an employee for incompetence or incapacity; the rationale of that being that judgments as to incompetence or incapacity are deemed to be related to an assessment of qualifications and capacity to perform on the job, and, therefore, constitute a part of the merit system.

The reference for that is section 32, I think, of the Public Service Employment Act. No, that is a wrong reference. I will give you the correct reference in a moment. The reference is section 31.

2. It is contemplated that the Financial Administration Act should vest in the Treasury Board the authority to regulate—prescribe, that is—standards of discipline, these standards of discipline to be subject to bargaining and arbitration. It is contemplated equally that the authority will be vested in the Treasury Board to prescribe penalties to be imposed, including suspension or discharge for misconduct or a breach of discipline.

The provision covering that is section 71(f) of Bill C-182.

You will notice that the authority to be given to the Treasury Board there is stated in terms of the authority to establish standards of discipline; and if you look at the collective bargaining legislation you will find that standards of discipline are bargainable and subject to arbitration within the provisions of the collective bargaining bill.

Here we have also the authority to prescribe penalties—not to impose penalties but to prescribe the penalties to be imposed.

3. It is contemplated by these provisions that both the Civil Service Commission in respect of the first mentioned matter and the Treasury Board in respect of the second matter should be empowered to delegate their respective authorities to deputy heads of departments, those authorities to be subject to delegation under prescribed conditions which include the authority of the delegating bodies to withdraw the delegated authority under circumstances where they consider that the delegated authority has been improperly used.

Finally, it is contemplated that:

An action to release for incompetence or incapacity whether taken by the deputy head under the delegated authority or taken by the commission in its own right should be subject to appeal in accordance with the provisions of the Public Service Employment legislation.

Now, that is the distribution of the responsibilities for dismissal and release, and that does not touch, Mr. Bell, on the area that is represented by—

Mr. BELL (*Carleton*): Subsection (7).

Mr. DAVIDSON: Subsection—

Mr. BELL (*Carleton*): The power of dismissal in the case of the safety or security.

Mr. DAVIDSON: Right. I was looking for this.

Mr. BELL (*Carleton*): It is on page 4, subsection (7).

Mr. DAVIDSON: That is right; the proposed new subsection (7) of clause 7, is the point in the trio of legislative enactments where in the view of the government there must remain an overriding authority which leaves with the governor in council the overriding responsibility and authority to effect suspen-

sion or dismissal in the interest of the safety or security of Canada, or of any state allied or associated with Canada.

You will recall, Mr. Bell and gentlemen, that in the original discussions of the bill, which took place in the house, the Minister, Mr. Benson, had something to say about this provision. I can only say with respect to this portion of the total complex that this is, in the view of the government, a provision which it is necessary to retain in the legislation at some point; it is the final residual power; and I think it is a matter of government policy which the minister may, in his intervention before the committee, have to explain at the appropriate time in further detail.

Mr. BELL (*Carleton*): Yes. Perhaps I could just go back and review the various situations. The power of dismissal in the Public Service Commission for incompetence and incapacity is subject to appeal by the regular appeal procedures.

Mr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): This is not subject to collective bargaining.

Mr. DAVIDSON: That is correct. It is a part of those responsibilities which are excluded from collective bargaining because they are regarded as being part of the merit system under the jurisdiction of—

Mr. BELL (*Carleton*): This is the demerit system, and, therefore, is not subject to collective bargaining.

Your second aspect is the Treasury Board power regulating discipline, and for a breach of discipline discharge is possible.

May I ask, first, why this is made a matter of regulation rather than being spelled out in the statute itself?

Dr. DAVIDSON: Because it is bargainable, Mr. Bell. The standards of discipline are bargainable and arbitrable, and for us to entrench in the legislation itself the specific standards of discipline would be tantamount to taking into the employer's own hand, unilaterally, the responsibility for prescribing standards of discipline, without their being subject to bargaining and arbitration as is contemplated by the collective bargaining bill.

Could I just add one further point? Not only are the standards of discipline bargainable and subject to arbitration, but, in addition to that, actions taken with respect to employees, in the imposition of penalties rising from disciplinary actions related to standards of discipline, are subject to the grievance procedures and to adjudication.

Mr. BELL (*Carleton*): That makes it very clear.

Your final and third point is the ultimate prerogative reserved in full in the case of safety and security?

Mr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): I think, Dr. Davidson, I do not want to ask you—

Dr. DAVIDSON: For the safety or security of Canada.

Mr. BELL (*Carleton*): Of Canada, yes.

I do not want to ask you to comment, unless you wish, in relation to this, because it is a matter specifically of government policy, but I think we must

have some statement of policy about whether dismissals of this type are to be subject to some type of appeal, or some type of grievance procedure, before we pass this bill. It may well be that the government will—

Mr. LEWIS: This is section 50, is it not?

Mr. BELL (*Carleton*): This is clause 7(7).

Mr. LEWIS: Yes; but it is the equivalent of section 50 in the old Civil Service Act.

Mr. BELL (*Carleton*): Somewhat restricted; the old section 50 was unlimited.

Mr. LEWIS: A little wider, yes.

Mr. BELL (*Carleton*): It is a little wider than this.

It may be that the government's approach will be that they want to reserve this until such time as the proposed Royal Commission on Security reports, but I think that we will need—and I would like to mention it, Mr. Chairman now—we will need a very clear statement on what type of appeal procedure might be contemplated under this clause.

Mr. LEWIS: At the moment there is none contemplated.

Mr. BELL (*Carleton*): There is none contemplated at all.

Mr. LEWIS: At the moment section 7(7) does not contemplate any appeal procedure at all.

Dr. DAVIDSON: I think that is correct.

Mr. LEWIS: The fact is, if I recall correctly, that the following subsection declares that if you have a piece of paper from somebody, which says that you are dismissed for security or safety, that is it.

Dr. DAVIDSON: Not exactly; not just "somebody".

Mr. LEWIS: Well—

Dr. DAVIDSON: The governor in council.

Mr. LEWIS: The governor in council; that is somebody.

Dr. DAVIDSON: I would like to point out one important difference which, I think, touches on the point that was made that this is considerably more limited than the present section could be. Section 50 (2) of the present Civil Service Act reads as follows: "Nothing in this Act shall be construed to limit or affect the right or power of the Governor in Council to remove or dismiss any employee."—for any reason, or for no reason. The restriction in the amending Bill before the Committee is in the view of the government, a substantial restriction of this unfettered power.—

Mr. LEWIS: Dr. Davidson, we were informed during the debates on the unfortunate Victor Spencer that, in fact, subsection (2) of section 50 has been used only in cases of security. At least, that is my memory. That is why, in my mind, they are the same. Even though the wording is wider the application of it was the same.

Dr. DAVIDSON: I can think of other circumstances, Mr. Lewis, in which I am sure you would argue the reverse of that proposition.

Mr. LEWIS: I am not saying that I am not glad to see the present wording. I am. I am just unhappy that there is not some appeal procedure, even if *in camera*, following that.

Mr. BELL (*Carleton*): I think that we have fairly clearly the power of dismissal on the record there and I defer to my colleagues. I want to come back to another matter a little later.

Mr. LEWIS: Can I deal with the appeal tribunal, or has that been dealt with while I was away? Is it contemplated that the present set up of the appeal tribunal on the matters which are reserved to the Civil Service Commission, or the Public Service Commission, will continue? We have had representations which persuade me of the value of having an appeal tribunal which is not part of the Public Service Commission.

May I conclude by saying that I have thought about these representations and I appreciate the need to have the appeal tribunal in some way related to the practices and standards of the Civil Service Commission followed, otherwise you go off at tangents occasionally, or there is the danger of going off at tangents.

Could I ask you, Dr. Davidson whether it would not be worthwhile giving serious consideration to setting up in the statute a separate appeal tribunal, even if you make it, as far as its relationship is concerned, related to the Public Service Commission. I do not care how much we are told that the appeal tribunal now is entirely acting independently of the ordinary organs of the Civil Service Commission and so on; as I suggested,—perhaps you were here—to Mr. Heeney, I can well see that the employee will not feel that justice is being done even though some may think it is?

Dr. DAVIDSON: I will say quite frankly that this has bothered me on more than one occasion in the years that I have been in the public service, and yet I confess that I have not, in these years been able to satisfy myself of any better approach to the problem of providing assurance to employees that they have been fairly dealt with and have a right to be heard in the dismissal procedure.

Let me just go on to say—

Mr. LEWIS: It is not only dismissal; it is promotion, demotion and transfer—all those things.

Dr. DAVIDSON: Let me just perhaps cover all of those points by saying that to the extent that the delegated authority, which it is planned to give from the Civil Service Commission to the departments, works in a genuine fashion, it seems to me that it will result in the employees getting a fairer impression of appealing to an independent and generally detached and objective appeal tribunal under the delegated arrangement where they make their appeals to the Civil Service Commission against departmental decisions.

Part of the reason why there has been the impression in the minds of many individuals that they are making their appeal to the same body that made the decision in the first place, is that the authority of the Civil Service Commission has, in the past, tended to be held centrally and the action appealed against has

been taken by the Civil Service Commission itself; consequently, when an action was taken by the Civil Service Commission, acting in the direct discharge of its responsibility, and then an appeal was made to the Civil Service Commission against that decision, the impression was understandably left in some instances that the appeal was being made to the same authority which had directly made the decision in the first place.

To the extent that we can establish a proper system of delegation of authority, where the department takes the action as the management agency on the delegated authority of the commission, and the commission then sits in judgment when the employee appeals, it seems to me that the employees will get a much clearer impression that they are being dealt with at the second stage by a body that has not already dealt with the matter in the first place. They will, in fact under this new arrangement for delegation be having a much more meaningful appeal procedure made available to them than has been possible under the more centralized system under which the commission operates at the present time.

Mr. LEWIS: I hope you are right. I am not, at the moment, persuaded, although I say, with reservation, that it deserves thinking about.

Let me ask you one or two questions and then make a suggestion in the form of a question.

I got the impression—I do not know enough about these things from personal experience—from what Mr. Heney said that there are persons on, or with, or in, the Civil Service Commission, who are given the task of being the appeal tribunal at the present time. Is that right?

Dr. DAVIDSON: Yes, that is my understanding.

Mr. LEWIS: Do they do that only?

Dr. DAVIDSON: Yes.

Mr. BELL (*Carleton*): No; I think you are wrong there, Dr. Davidson.

Dr. DAVIDSON: That there are people set especially?

Mr. BELL (*Carleton*): But they draw the people who sit on the appeal tribunal from the various departments, and occasionally from outside, I think.

Dr. DAVIDSON: Well, I know there is an appeals section of the Civil Service Commission.

Mr. LEWIS: That is what I am trying to find out.

Dr. DAVIDSON: I had answered the first question and I had not answered the second question.

Mr. LEWIS: Your answer to my first question was that there are people whose job it is to sit in appeals.

Dr. DAVIDSON: There is an appeals branch of the Civil Service Commission, organizationally and structurally. There is a chairman. There is an appeals branch which contains a number of employees who are exclusively employed in presiding over appeals.

Mr. LEWIS: Who are the other members of the appeal board.

Dr. DAVIDSON: The other members of the appeal tribunal—other than the chairman, as I understand it—are drawn from branches of the Civil Service Commission or other parts of the government service.

Mr. LEWIS: I suppose these people are drawn from areas which are not related to the areas in which this event occurred. I do not blame civil servants for feeling that this is not a fairly satisfactory appeal tribunal. I have doubts about your statement that if the deputy head or somebody in the department takes the initial step of deciding on the promotion, demotion, dismissal, transfer or whatever it may be, that that will give them a better appeal when they go to the commission's appeal branch. I see no reason for this and I would like to ask you why it is not possible first to provide in the legislation that there shall be an appeals tribunal. May I stop here to say it seems to me when that is done, then it immediately establishes in the mind of the employee that this appeals tribunal is a matter of law. It is not a matter of some administrative act by the commission which it seems to me would be advantage number one. And, secondly, that the appeal tribunal consist of two or three people who do nothing else and are not drawn ad hoc from other management areas. Why can that not be there. It seems to me it would have the advantage that you would build up some jurisprudence by the appeals tribunal.

Dr. DAVIDSON: May I just make three observations. My first observation is that I am being asked to comment on a provision of the public service employment legislation which does not really come within the purview of my own functions as Secretary of the Treasury Board, and it is rather for the Civil Service Commission to express authoritatively their points of view.

Secondly, I personally have no difficulty in following you on your second point, Mr. Lewis, which had to do with how these boards are made up; but on the first point I must say I do find just a little difficulty, which I will state as follows. We set up a Civil Service Commission because we do not trust the government in its capacity as employer to take all of these actions unilaterally with respect to its employees. We set up the commission to safeguard all of the areas of responsibility in public service employment policy that we do not want the employer to have control over. Now, we set them up presumably because we regard them as being an independent, untouchable, virtuous and upright guardian of the public interest, dedicated to the proposition of making just decisions. I must say that, having done that, I then find it a little difficult to say well, of course we do not trust the judgment of this body and therefore we will set up another appeal tribunal to pass judgment on whether or not the decisions of the Civil Service Commission that we set up originally as an impartial agency were proper or not. I realize you can say, of course, that in the law courts of this country we do have tiers of appeal courts superimposed one on the other.

Mr. LEWIS: We certainly do. I am always reminded, and every lawyer around this table knows it, Dr. Davidson, of the story that is often told about the eminent British counsel who appeared before the Privy Council on say, a contract case, and he started off by giving an elementary statement of the law and the presiding law Lord turned to him and said, Mr. Smith, let us say, "surely you can assume that we know this much of the law" and his answer

was, "that is the assumption I made in the courts below, that is why I am here." This is true not only of the courts but it is true of the commission.

Dr. Davidson, if you look at Clause 31(3) for example, you find that within such period after receiving the notice in writing mentioned in subsection 2 as the commission prescribes, the employee may appeal to the commission against the recommendation of the deputy head, and so on, and the commission may do as it is said. I was paraphrasing. It seems to me if I were an employee and you were an employee of the government in the lower echelons and read this and the other parts of this law which say the commission appoints me; the commission sets the standard; the commission had the authority to promote me; the delegated authority, the bit of refinement that I as an employee, a clerk somewhere, am not interested in, and then I am told, this sends me back to the people who did it to me in the first place, it is just as simple as that.

Dr. DAVIDSON: It is not quite as simple as that.

Mr. LEWIS: As far as the words are concerned it is.

Dr. DAVIDSON: With respect, Mr. Lewis, no not even as far as the words are concerned. If the clause said that the deputy head had the right to dismiss and that the commission was the tribunal to whom the dismissed employee could appeal, would you be satisfied with that, at least legislatively?

Mr. LEWIS: Well, it would be a little better but, of course, at the present time 31(1) says that if the deputy head feels a person is incompetent, or has not the capacity, then he makes a recommendation to the commission to do such and such and the commission does it and then subclause (2) provides that a deputy head gives notice in writing to the employee that he has made the recommendation to the commission and then subsection (3) says you can appeal to the commission.

Dr. DAVIDSON: I certainly would venture the opinion that the staff associations would be much more disturbed about vesting authority to dismiss in deputy heads—if you were to vest the authority in the deputy heads to dismiss and make it subject to appeal to the commission—than they would be by the present provision which restricts the deputy heads' authority—

Mr. LEWIS: I am sure they would. That is not my suggestion.

Dr. DAVIDSON: You said it would be better.

Mr. LEWIS: No, no, I am not suggesting that. I am suggesting that you can have your appeal to the commission under subsection (3). Obviously, the commission ought to say something, but there ought to be then a further appeal from the commission to an appeals tribunal provided for in the legislation, a tribunal consisting of men and women, two or three, I do not care what number, who will be charged with the duty of hearing these appeals. I think then the law will clearly say to the employee that he is getting justice and I think, also, Dr. Davidson, that there would be value in having a permanent tribunal so that you develop procedures and jurisprudence and a kind of certainty in the way in which you administer the demerits or even the merits.

Mr. BELL (Carleton): Mr. Chairman, perhaps I could get Mr. Lewis to do me the honour of reading Bill No. C-63 introduced on January 24 of this year which provided for just such a civil service appeal panel.

Mr. LEWIS: It just proves that we are both right. If you press it too far I might change my mind.

Dr. DAVIDSON: I am not arguing that your idea would not be clear evidence of a completely impartial appeal tribunal. What I am arguing, I think, is that if you start off on the basis of a policy that you are going to take certain prerogatives, having to do with staffing of the public service, both the positive aspects of staffing and the negative aspects of staffing, out of the hand of the employer and vest those authorities in an independent tribunal, which is the Civil Service Commission, then, to say the least, you introduce complications when, having one that, you repeat the process all over again and set up a second independent tribunal in whom you, by implication, are vesting certain staffing and destaffing rights so far as the civil service of Canada is concerned.

Mr. LEWIS: This will be my last word. I wish I had your own words before me. I think that what is suggested in the bill to which Mr. Bell drew my attention and which I had not read and what I am suggesting and what was suggested by witnesses—if I remember correctly the professional institute made the point the other day—using your own words, indicate that since you have vested the authority to staff and destaff—if you will permit me to coin a word—in the Public Service Commission, precisely because the staffing and all the elements within that are vested in the Public Service Commission, then for that purpose the Public Service Commission is the employer, or is in the nature of the employer.

Dr. DAVIDSON: I could not accept that.

Mr. LEWIS: I say for that purpose it is in the nature of the employer. It does exactly—shake your head if you like, Dr. Davidson—what the general manager of a firm has to do.

Dr. DAVIDSON: Is the hiring hall the employer?

Mr. LEWIS: I beg your pardon?

Dr. DAVIDSON: Is the hiring hall the employer in the case of unions?

Mr. LEWIS: Some employees think so.

Dr. DAVIDSON: Do you think so?

Mr. LEWIS: Sir, I think there are aspects. I do not mind saying to you Dr. Davidson, I am not particularly fond of the hiring hall although I know of situations where they may be necessary. But, in so far as those who exercise authority in the hiring hall have any influence on the question of whether or not a particular person is hired, then to that extent the people exercising the authority are exercising an authority normally vested in the employer. All I am saying to you is that when you vest the authority in the Public Service Commission to engage people—that is what the power of appointment is—to promote them, to demote them, to measure their capacity, put them through exams, to that extent. The Public Service Commission is exercising an authority which is normally vested in the employer.

Dr. DAVIDSON: That is true, but that does not make them an employer.

Mr. LEWIS: They are in my eyes, as an employee who gets hired. If I am hired by the Civil Service Commission, in my eyes the Civil Service Commission is the agency for that purpose of the employer rather than an independent agency. Do not misunderstand me, Dr. Davidson, I am not questioning the independence of the Civil Service Commission. I am just saying that when I appear to be hired, and this is the body that hires me, when I make application for promotion, this is the body that says whether or not I am going to be promoted, then in my eyes as an employee, this is the body with the authority to control my progress or lack of progress in the service. There is nothing wrong, I suggest to you, in making that authority subject to the appeal procedures of some other authority which is not connected with the appointment, promotion and demotion.

Dr. DAVIDSON: I am afraid that the conclusion I would draw from the proposal you are making is that if you are going to set up an appeal tribunal to pronounce upon the acts of a body you have already set up to deal independently with this problem, the case for having an independent Civil Service Commission gets weaker and weaker to the point of almost disappearing. I would be most reluctant to accept that conclusion.

Mr. LEWIS: Oh, surely not.

Dr. DAVIDSON: On the basis of what you are now saying, what would be the argument against going back and letting the employer employ his people—then set up the Civil Service Commission as an appeal tribunal to deal with all the grievances that employees have with respect to the way in which the employer has exercised his right of recruitment and appointment.

Mr. LEWIS: I am afraid, Dr. Davidson, that when I studied logic I would have called that a *non sequitur*.

Mr. BELL (Carleton): Dr. Davidson does not believe in appeal courts.

Dr. DAVIDSON: I have no objection to appeal tribunals. I have no objection, personally to a separate appeal tribunal but it does seem to me that when you begin to set up a separate tribunal to sit in appeal over the decisions of a body that you have already set up in effect as a neutral, impartial body, you are introducing complications and the necessity then of distinguishing who really is responsible for the staffing and destaffing of the public service.

Mr. WALKER: May I ask a supplementary question? It appears to me the problem—correct me if I am wrong—that is bothering Mr. Lewis could be that employees do not have confidence in the integrity and arms's length independence from the government of the public service. It was mentioned a couple of times by some of the people who were here with their briefs. I got the impression that there would be satisfaction if the employees had what they call an employee representative on the tribunal. This was a specific point that was mentioned a number of times. I think even this might give some of this confidence of independence in the tribunal to employees. There is no mention of this in the bill. Have you any comments on the desirability of in fact having—not an agent for the appellant—somebody who sits on this board, obviously somebody who could not be tabbed a management man.

Dr. DAVIDSON: Well, the fact that we have introduced, in the collective bargaining legislation provision for an arbitration tribunal which will be

composed in a way that ensures the employee point of view is represented on the arbitration tribunal, indicates that in principle, certainly in so far as the collective bargaining part is concerned, there can be no objection to that.

Mr. WALKER: All right. But we are speaking of the appeal tribunal as things which will not be the subject of arbitration or bargaining. Basically we are trying to preserve the merit system. The Public Service Commission, that I consider just as a body that the government has hired and contracted out the job of staffing the public service in this country, want to preserve this merit system. I think they are afraid that the preservation of the merit system might be damaged if the appeal tribunal is somebody who is not associated with the philosophy of the merit system. On the other hand, the employees must have some confidence in the integrity of the independence of the appeal tribunal. I think they might have more if there was in fact employee representation on these appeal tribunals.

Dr. DAVIDSON: I do not question that. I do not question for a moment that the employee would have more confidence in the complete independence of an appeal tribunal, or whatever you want to call it, if first of all the decisions of the appeal tribunal were final. And, secondly, if they felt they had, not necessarily a representative sitting on the tribunal in terms of a nominee, but at least someone that they recognize as having been selected—

Mr. WALKER: As not being one of their bosses.

Dr. DAVIDSON: —under terms and conditions that they accepted, as a person who represents and understands the point of view of the employees. I do not question that.

Mr. WALKER: But there is no provision for that in the legislation?

Dr. DAVIDSON: No. The provision in the legislation, as I recall it, leaves the composition of the appeal tribunals entirely in the hands of the Public Service Commission.

Mr. WALKER: Just one last question; you have heard or read of the various suggestions that have been made by people submitting briefs. I am not asking you to specify, but do some of them appear to be reasonable?

The JOINT CHAIRMAN (*Mr. Richard*): I think you will have to be more specific, Mr. Walker.

Mr. WALKER: I do not want to be specific.

Mr. KNOWLES: Even Dr. Davidson is a reasonable witness.

Mr. WALKER: All right, I will put it the other way around. Are you in a hard position as far as this piece of legislation is concerned as to every word, every comma, as it stands right now?

Dr. DAVIDSON: I am in a very hard position, Mr. Walker, but not with respect to this legislation. I do not know if this is what you are driving at, but may I say again that the Public Service Employment Bill is not a bill on which my pronouncements should be taken as the official pronouncements of either the government or of the Civil Service Commission itself. It is the Civil Service Commission that has the responsibility for dealing with the questions relating to its legislation. I should, perhaps, not have gone so far as I did in even expressing my own point of view on some of the questions raised tonight.

So far as the legislation for which I have any responsibility is concerned—and that will relate to the Financial Administration Act and to the collective bargaining legislation to some degree as well—the study that we have given to this at the staff level since the bills were first printed and presented to the Committee, together with the study that we have given to a lot of the suggestions and proposals that have been aired in this Committee, has led us to the position where now, when the appropriate time comes, we will have some suggestions and changes to offer for the consideration of the Committee.

We will not offer those in any spirit of suggesting that the government has considered all representations and this is what the government is prepared to do. These will be presented in many instances as staff suggestions. Many will deal with technical points of wording of sections. But we will have a contribution to make, and I would think the appropriate point to bring those forward would be when we move into the section by section and clause by clause consideration of the legislation.

Could I, perhaps, at this point, Mr. Chairman, just explain what is in the minds of the staff that will be serving your Committee in the further consideration of these three bills, particularly with respect to the collective bargaining legislation.

We would think that it would be helpful to the members of this Committee if, once we get into the so-called clause by clause discussion of the bill, we were to break the legislation down into what I think are fairly compact, logical and obvious sections. Sections 11 to 25, for example, are the sections that deal with the public service staff relations board. We would suggest that we bypass initially the interpretation and definition section. If we ever get started on that we will never get into the other, but the definitions will become relevant as the appropriate sections of the legislation come up for consideration.

We would propose, therefore, if this is of any help to the Committee, when you are ready to begin the consideration of sections 11 to 25 dealing with the P.S.S.R.B., to make a brief initial statement, trying to set the function of this organizational unit in the proper perspective, so that our discussion can then proceed on a clause by clause basis from that point on, with a general understanding on the part of the members of the Committee of where this particular unit fits into the total machinery.

Having completed the clause by clause discussion of that section, we would then move on to sections 25 and following, which deal with the certification and related procedures. We then eventually move into the two avenues by which bargaining units can choose whether they wish to proceed along arbitration lines or normal collective bargaining lines.

At the right points, as we move from section to section and clause by clause, we would encounter not only the proposals of the members with respect to possible changes that might be desirable, but we would have a number of changes to make ourselves, as we come to the clauses where we have discovered some change is necessary.

Mr. LEWIS: That procedure would be very helpful, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): I thank you very much, Dr. Davidson. That will be very useful.

Mr. LEWIS: On this subject, when you deal with, say, clauses 11 to 25 concerning the board composition, powers, and so on, perhaps when you prepare those things you might also have an eye on some of the other areas of authority which this board is given in some other parts of the bill.

Dr. DAVIDSON: Yes. The Chairman and I had already mentioned this earlier before the meeting began, and it is realized by us that there will be some interconnecting discussions that have to be included.

Mr. BELL (*Carleton*): There is one matter of some importance. I think, perhaps, this is the only opportunity we will have to ask this question of Dr. Davidson, and I put it to him in his role as dean of deputy ministers. He can, perhaps, duck it if he wishes—although I do not think he will—and that is, has he any advice for the Committee on the subject of political participation in the public service?

Dr. DAVIDSON: I was for quite a few years, Mr. Bell—from 1944, when I first became a deputy head until 1963—a deputy minister, including a deputy minister under your ministerial direction, serving all those years during pleasure. I then, through a queer quirk, became for four years a classified civil servant, with all the protection that is implied in that status. On October 1 of this year, with the proclamation of the Government Organization Act and the creation of the new Department of the Treasury Board, I gave up my security of status as a civil servant and I am now a deputy minister again and could be fired at pleasure. You are setting the stage, I can see—

Mr. BELL (*Carleton*): I set the stage for you to become a classified civil servant.

Dr. DAVIDSON: —by asking me what I have to contribute on the subject of the political activities of civil servants. I am sure it is clear to members of this Committee already from what has been said on this subject on the government side, that the government considers the time has now come when Parliament should examine the right of civil servants to participate within proper and reasonable limits, much more extensively in the political life of the country than they have in the past.

Mr. Benson made it clear when he presented this legislation to parliament that the clauses that had previously been in the Civil Service Act with respect to political partisanship were merely being transferred, without commitment, into the legislation now before the Committee—not because they represented what the government considered was the appropriate policy to adopt for the future, but simply as a reminder to the members of this Committee that this was a matter that they should review, re-examine, reconsider and set a new course, a new charter, of the limits within which civil servants can exercise their political responsibilities and rights for the future. So far as I can give the Committee assurance, Mr. Bell, it is the government's wish that this should be dealt with on a non-partisan basis, as an open question and that the members of this Committee should come to their own conclusions quite fully on this subject.

Mr. BELL (*Carleton*): I appreciate that, Dr. Davidson. My only point was whether you felt disposed, because of your long experience, to suggest to us what might be a proper approach. I have no doubt that the government has been very openminded about this.

Dr. DAVIDSON: I wanted to make that point first of all. I can only say that I have examined the memorandum that was placed before the Committee by the Civil Service Commission, which it was asked to prepare for the consideration of this Committee. It seems to me that it has followed a reasonable and logical course in setting forth proposals for different groups of members of the public service. It has some relationship to the pattern that has developed in the United Kingdom, as far as different levels of responsibility in the civil service are concerned. That would carry my judgment as a reasonable and a major step forward in the liberation of the civil servants in the federal public service from the very serious limitations that they have suffered up to the present time, as far as political activities are concerned.

I would be prepared to re-examine that statement and come back to it at the appropriate time if it were thought helpful by the Committee, but I certainly would endorse, in general, the lines that were set out in the memorandum offered to this Committee by the Civil Service Commission.

Mr. BELL (*Carleton*): I think if you have any further thoughts at the time we come to this particular matter, we would be most happy to hear them and hear them from someone who, as I say, sir, is the dean of deputy ministers, with such long experience in public administration.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Dr. Davidson.

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OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 15

TUESDAY, NOVEMBER 1, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Messrs. Sylvain Cloutier, Commissioner, A. R. K. Anderson, Director,
Bureau of Classification Revision, Civil Service Commission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. Hastings,
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Ricard,
Mr. Rochon,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Édouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 1, 1966.

(26)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairman, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Ferguson (3).

Representing the House of Commons: Messrs. Ballard, Bell (*Carleton*), Berger, Chatterton, Chatwood, Crossman, Émard, Fairweather, Hymmen, Knowles, McCleave, Richard, Tardif, Walker (14).

Also present: Mr. Patterson.

In attendance: Messrs. Sylvain Cloutier, Commissioner, A. R. K. Anderson, Director, Bureau of Classification Revision, Civil Service Commission.

Also in attendance: Dr. P. M. Ollivier, Parliamentary Counsel and Law Clerk, House of Commons.

As requested at meeting (23) October 27, 1966, representatives of the Civil Service Commission appeared before the Committee to explain the criteria, procedures and functions of the classification review programme. The representatives of the Civil Service Commission were then questioned on their presentation.

The Committee agreed to accept the following as appendices to this day's proceedings:

- Chart showing Categories and Groups; (*See Appendix O*)
- Approximate distribution of positions among proposed occupational groups; (*See Appendix P*)
- List of classifications in the Administrative Services Group and the Clerical and Legislative Group. (*See Appendix Q*)

A copy of the Classification Standards for the Administrative and Administrative Support Categories is held by the Clerk of the Committee for perusal by members.

The questioning of the witnesses concluded, the meeting was adjourned at 1.49 p.m. to the call of the Chair.

Édouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 1, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): The meeting will come to order.

We have with us this morning Mr. Cloutier, one of the commissioners of the Civil Service Commission and Mr. Ross Anderson, from the Treasury Board, who has agreed to discuss the problem of classification.

Would members of the committee like to have a statement from Mr. Cloutier, if he has one, or from Mr. Anderson?

(Translation)

Mr. CLOUTIER: If I understand, Mr. Chairman, the members of the Committee expressed the desire at the time of their last meeting to have further details concerning the programme for the revision of classifications and the desire was equally expressed that there should be explanations on the processes of the program, as well as on the relationship between the classification program and Bill C-170. Furthermore information was requested on the procedural methods of the Bureau of reclassification. I would like, first of all to explain to you the objectives of the plan as well as its relationship to the new classification system in Bill C-170. And then Mr. Anderson will speak. He is the director of the Bureau of Classification Revision and he will speak on the procedures.

(English)

Mr. Chairman, first I would like to say a word about the background which led to the classification revision program, and as I go along I would like to focus on the relationships of the various aspects of the classification revision program to Bill No. C-170.

First of all we have to take into account the fact that the systems of classification which existed as late as only three years ago were first introduced in the civil service in 1919, at a time when there were only a couple of dozens of tens of thousands of civil servants employed in only 20 or so departments, as compared to the huge civil service which we know today.

It is significant that at that time the system that was introduced, on the recommendations of a management consulting firm, comprised 1,700 classes, grouped in about 43 occupational families. This was the system that was first introduced over 45 years ago.

The system has not been seriously revised or amended since. It has been bruised and battered by the events which have taken place since that time, and has been bruised and battered by the growth in size and complexity of the public service, and also by the unusual demands placed upon it by the second world war.

To give you an example, classes and grades through out these years, and also salary ranges, had been allowed to proliferate until really all sense of an orderly

structure had been lost. The underlying principles had indeed become very, very obscure. Indeed, in 1939 from a beginning of 1,700 classes and grades, the structure had passed, in 1939, to 2,600 classes and grades, and in 1936 to 3,700 different classification labels, so to speak.

In those years, the criticisms that were levelled at the system of classification were extremely widespread and they came from just about every source. They came from the employees themselves, they came from their representatives and they came from departmental officials.

They also came from three different royal commissions which sat during that span of years. The first one was the Beatty Commission, which reported, I believe in 1931, or around that time. That the Commission should focus more particularly on the professional and technical facets, and, in effect, the Royal Commission said: Gentlemen, you should be devising personnel systems for your professional and technical staffs which are geared, or designed, for these staffs; which take into account the particular requirement of the staff.

In 1946 the Gordon Royal Commission, which focused on the administrative classes, said very much the same thing with respect to the administrative classes, because an underlying arrangement in the old system was that the same arrangement applied to all classes from messenger to research scientist, so to speak.

The last criticism was levelled by the Glassco Commission, and, in effect, Glassco said that the systems of classification and pay were in need of a thorough set of reforms; and Glassco, practically in his next breath, said that in the area of management, as in many others, departmental officials should be given a greater role to play, with more authority and more responsibility.

This is where we were in the fall of 1962, after the publication of the Glassco report, and throughout the fall and winter, in various circles in the public service, there was a realization—a consensus—that something would have to be done in relation to classification and pay.

There was some doubt and hesitation about the ways and means, and this is not surprising if one looks more closely at the systems that were in place. If you will allow me, I would like to give you a bit more detail on these existing systems of classification and pay—and I say systems, because there was not only one, but a great number of them. There was one, for instance, which was the responsibility of the Civil Service Commission: the classified service, which at that time encompassed about 145,000 to 150,000 positions. From the initial set of 1,700 classes and grades—which had gone up to 2,600 in 1939, and up again to 3,700 in 1946—through those years there has been the possibility of reducing them somewhat so that in the fall of 1962 there were 725 classes and grades; but the significant figure that I would like to leave with you is that there were over 700 classes.

Some were service-wide in application, or horizontal in concept, such as, for instance, the administrative officer, whom you can find in any department doing a great variety of tasks. Some were departmental in structure, or vertical in concept. In other words, you would find this class only in one department, but, within that department, any number of employees doing any number of tasks would be classified in that class. For instance, if we look at the Civil Service Commission, there was in existence a class called the Civil Service Commission

officer. The Civil Service Commission officer could be a classification officer, he could be a selection officer, he could be an organization of methods officer, he could be an administrative officer and he could have any number of other tasks.

There were also a considerable number of classes which applied to only one individual—director of such and such a branch, chief of such and such a division. Therefore, in effect, while the number of classes had been reduced from what it had been previously, it was still a considerable number, and there were not any underlying set of principles which could be corralled and looked at quickly; far less were they comprehended or understood.

Perhaps of equal importance was the fact that many of these classes were not backed by detailed classification standards. In effect, there were only pay plans. The best example I can give you is possibly the clerical grades. There we had clerks 1, 2, 3 and 4, and these, in effect, were only pay plans, were only salary ranges; and these grades applied to roughly 24,000 or 25,000 people. Yet there were no written classification standards. There were selection standards, but because of the technique which had been used in 1919—the technique called grade description, which involved a representative summation of duties—it had been impossible to tackle the problem of devising meaningful classification standards for these classes. Therefore, while there were standards for a majority of the classes, a majority of the employees were not covered by rational, logical, complete and understandable classification standards.

I should like to give you another example of the lack of underlying logic in this system. I referred earlier to the Civil Service Commission officer who might be doing any number of tasks within the Commission, some of which would not be related to personnel work at all. Let us look at personnel work in the service. A personnel officer could be classified as a Civil Service Commission officer. If he happened to be working in the Department of Finance, as it was then, now the Treasury Board, he would be classified as a finance officer. He could also be classified as an administrative officer. If he happened to be working in Defence Production, he might be called a defence production officer; and, indeed his neighbour might be called something else, such as an administrative officer. Similarly, you had personnel work being done in the post office under the classification of postal officer, or training officer. You had a great number of classes, all of which did not have the same levels, or the same grades, and you had people then classified in different classes doing the same work and not necessarily paid at the same level, because of the patchwork of concepts and techniques that applied.

So much for the first system, the classified service, which, as I said, applied to something like 140,000 or 150,000 employees at that time.

The second system—and again here I should say systems—that we were faced with, was the system called the “prevailing rate and ships’ crews and officers” which covers over 30,000 employees. I believe the figures are about 26,000 or 27,000 for the prevailing rate employees, and this is an average over the years, because there are peaks and valleys, depending on the season, and about 3,000 ships’ officers and crews. We find here a total of 1,350 job titles; and these are not classes, these are job titles. Each one of these job titles would have at least one salary rate, because these jobs are locality-oriented and the rates of pay are those prevailing in the locality, hence the name, prevailing rate

employees; so you might have one job, a truck driver, for instance, which you would find in 75 localities, while that one title would have, in effect, 75 different rates. Another department might call this truck driver a heavy truck driver, so that would be another class and grade. Here again you have a fabulously complicated set of job titles, none of which have been arranged in job families. Therefore, the problem of dealing with them has always been a problem of individual action. Let me again harp on the fact that there were 1,350 of these. I said job titles precisely because of this. In most instances there did not even exist an official description of what the duties really comprised. And a truck driver is a truck driver is a truck driver, I suppose.

There is another aspect of this system, in relation to the first one, that is in many respects even more important, and this is the fact that in some areas of the public service you have, let us say, carpenters. In some areas the carpenter is a prevailing rate employee, and he is being paid on the prevailing rate system, which is really the rate prevailing in the locality; therefore, depending on the economic health of the community, the rate might be high or low. On the other hand, in other portions of the service, in other departments, that same job might be classified in the Civil Service system as a maintenance craftsman and he would be paid on a national rate. In effect, you have two systems of employment relating to the same type of job, and, in effect, you have one employee under a department being paid \$3.00 an hour under a prevailing rate system, and under the classified service, because it is a national rate, it would probably be \$2.75, and yet they are doing the same job. Here again is another dilemma built into the existing system, that somehow or other has to be rationalized when we approach the problem.

In addition to these two large systems, there are a variety of other systems in existence comprising classes that are exempt from the Civil Service Act, classes in departments in which all other employees are subject to the Civil Service systems. I refer to teachers in Indian schools and northern administration schools. There are also classes of employees in agencies totally exempt from the Civil Service Act, which are following, in some cases, classification systems which paralleled the classified service system, or else what really was another system. Examples of this are the penitentiary service and the National Capital Commission right here in Ottawa. Here again, you have the situation where you have a considerable number of prevailing rate employees in the National Capital Commission system doing work in many respects similar to prevailing rate employees of, let us say, the Department of Public Works in Ottawa, and while the end result is not immensely different, yet they were still working under two systems of employment. If one looks at the public service as one public service, this poses considerable problems.

This was the situation which presented itself to the preparatory committee in the fall of 1963, when it was charged with the task of proposing reforms in the systems of classification and pay. These are the reasons why it was considered that reforms were necessary.

Mr. Heeney explained to members of the Committee how the Preparatory Committee went about its task. I do not intend to repeat this aspect of the operation, but I would like to emphasize the fact that the preparatory committee went at it with the best assistance available, both inside and outside the public service.

As Mr. Heeney indicated, the Preparatory Committee had assistance from outside the public service. Indeed, there were two officials from private industry, from companies which in particular had acquired a reputation in private industry for the excellence of the classification systems which they were applying in their own company, and there was also an official from the Steel Workers' Union which is also renowned for having a pretty good system of classification.

In addition, of course, the committee had the benefit of consulting with a number of outside authorities, university authorities, both from Canada and from the United States, individuals who had acquired a reputation in the field of personnel, and particularly in the field of classification and jobbing.

In addition, the Committee took a very, very long look at what was being done in the United States, in the United Kingdom, in France and in some other countries, and particularly throughout the period of active operations of the Preparatory Committee there were continuing consultations with the staff associations, not only on proposals relating to collective bargaining, but also on the evolving proposals relating to classification.

While I would not want to say that the associations have agreed in detail with the occupational grouping which emerged from the preparatory committee, I would certainly not hesitate to say that all the staff associations who were consulted at that time have no doubt about the need for fundamental and very, very substantial reforms in the systems of classification and pay. Indeed, those consultations, which were started in the preparatory committee, have been continued throughout the existence of the bureau of classification, in addition, but more about this later.

I would like now to move to the objectives which the Committee set for itself in relation to classification and pay. It concluded very quickly that extensive reforms in the system of classification would be necessary if there were to be an orderly approach to pay determination and collective bargaining. Again I come back to the image, which I have tried to draw for you, of the conflicting systems which were in existence. There was a need to do three things in this respect. In the old system there was a real maze of classes and grades. If you can imagine a big machine with 700 moving parts, no two of these parts necessarily moving together—they may move together at one time, but some time later, for different reasons, different pressures, different circumstances, they might not be moving together—you will see that there was a need to develop a structure which made sense, which could be understood, and which would allow certain portions of this machine to move in response to market pressures, to the movement of rates outside.

There was a need to break up this machine into logical units which would permit the employees to seek and obtain representation for some parts of it without necessarily seeking on behalf of the whole thing. In other words, if we had left the machine as one entity, then, the presumption would have been that the whole would have been the bargaining unit and, indeed, in most cases the presumption also would have been that the largest association in place would have obtained bargaining rights, and in those circumstances the chances would have been very, very small for anybody else ever getting bargaining rights.

This is one of the things which we felt should not be built into the system. In other words, we wanted to end up with a classification system which made sense

by itself, which was logical, which was based on understandable principles, but which would also be flexible, and which would be capable of responding in a rational manner to the circumstances.

Perhaps the most important element in the development of this whole structure—because, as I mentioned earlier, it was related to the development of collective bargaining—was the necessity to identify communities of interest. I referred earlier to the personnel work which could have been performed in a number of classes, departmental or service-wide, classes which, in most instances, were not reserved for personnel officers, but there was no way of identifying employees having a community of interest for the potential development of bargaining units.

These are really the three bases on which rested the necessity for devising a structure of classification which would be amenable to the system of collective bargaining that was being developed.

The second objective was the need for an orderly approach to the more effective management of an increasingly complex public service. This comes back to the very nature of the systems which existed as against those which we thought should be developed and implemented. The system which existed, because of the techniques which were employed when it was originally designed away back in 1919—and, again, the technique, as I mentioned, was called “grade description”—in those days this was the old technique that existed in classification work; but it is a technique that requires, by its very nature, a central administration, because it requires a tremendous amount of concentrated decision-making, and to maintain any control over it requires that it be administered by a central group of individuals. We wanted to take a leaf from the Glassco commission and devise a system which could be administered, but administered efficiently and with integrity in a decentralized setting.

These two objectives were of prime importance, but there were other objectives. The committee decided that the system should be based on consistent underlying principles—and again this is in relation to what was existing—and a clear definition of all the component parts. In other words, coming back again to my description of the then existing systems, we felt that, in going into collective bargaining, if the government, as an employer, did not have a classification system which it could not only explain, but even comprehend, collective bargaining could never develop into a worthwhile and productive relationship.

We also felt that the system should permit different approaches to the administration of classification and pay for different groups of employees. Again I am going back to what Mr. Beattie said in 1930, or thereabouts, and what Mr. Gordon said in 1946, and repeating that throughout the years the same systems applied to all employees in the classified service, which, of course, was the largest. All were classified according to the grade description technique; all were on national rates; all had, in essence, the same pay ranges.

We felt that one of the keystones of the new system would be to segregate large portions of this group of public servants, not necessarily to introduce immediately, but to permit the possibility, in future months and years, of the development of personnel systems designed particularly for the requirements of the employees, and also to provide a framework which would encourage this in a system of bargaining.

The other objective—I think this is the fifth one—was that it should be characterized by clearly understood pay structures which reflected acceptable interval relativities and permitted realistic outside comparisons. That is really the nub of the pay problem in any organization, public or private. Indeed, since the public service of Canada is the largest employer it is a large problem, and the problem is to devise a framework which permits employees already inside to understand the ladder of salaries which they, over the years, are called upon to ascend; and to understand that if they are at this level, it makes sense that the person sitting three desks away is at the same or at a different level; and that there is available a rational, or logical, explanation of the reasons why these relationships exist inside. This is one set of relationships. They are very important.

There is another set of relationships and this is with the outside market. As I mentioned earlier, for many years the whole public service went up or stayed the same; but there were not the facilities built into the system to respond to localized market pressures. Let me give you an example. Computer operation is a new field of endeavour. Indeed, it is about ten years old now, for the public service, in a big way, it is about seven or eight years old. The system which existed then was not one which made easily possible the creation of a class for this activity which you will all recognize was in very high demand outside, and the movement of rates outside was very quick in this area; but in the service, because we were not geared for that kind flexibility, what happened, in essence, was that we tied the rate for computer operations to other technical operations. Another thing is that we were some years in getting going because we could not attract the good people, and when we developed them—because from 1960 onwards there was a fabulous amount of self-training in this area done in the public service, and done very well—they were stolen away from us because industry, by and large, was in a much better competitive position than we were.

This is what I mean when I say that we have to develop a system in this day and age where in effect the public service is competing with all the other employers for good personnel. We have to devise a system that will recognize and adopt the flexibility that private industry has had for some years.

The second last objective which we set out as a desirable goal was that the system should provide attractive career patterns as strong incentives to superior performance. I do not think I have to talk very long about this. This is essential in any organization. If you are going to have somebody working for you, if he is going to be at all efficient as an employee, he has got to know where he can go and where he will normally go without recasting his skills.

Tied to this concept is the principle of "significant difference". This is a fundamental principle and I would like to tell you a little bit about it. In the old systems we had a series of rates within a class and indeed, only six years ago—I am thinking of one class, in particular with which I was quite familiar in those days—there was a class where there were 13 grades, and in terms of present day salaries these 13 grades all occurred between the range of \$5,000 to about \$15,000. That means within this relatively small, \$10,000 spread you had in effect, to identify 13 different levels of responsibility. It is very easy to see that you ended up with a spectrum of grades and the area for making a mistake was very great because the difference between one grade and another was quite small; so small, indeed, that with the tools available it was really asking too much of us to make the necessary clear distinctions. We felt that in the new

system rather than have a continuance of greys we should have a little more of black and a little more of white and perhaps larger differences between rates so that the decisions relating to one position belonging in grade two or grade three could be made with greater certainty and also—and this is very important—with greater rapidity.

The last objective which we set out to achieve stemmed from the thought that the system should permit extensive decentralization of administrative authority. Here, again, I come back to a few things I said earlier about the techniques that were being used. We felt that it was important to introduce in the new system the most up-to-date techniques, about which more will be said later, so that we could with confidence delegate the responsibility of classifying positions, delegating authority as close as possible to the point where decisions have to be made, so that the manager responsible for any operation would really have the tools with which to carry out his responsibilities, and would be in a position of no longer having to identify the problem and then pass it on to somebody else within the department who would pass it up and on to the Commission. Invariably, even with the best of good will, this is a time-consuming operation, and, more important, it never develops, in the line manager competence to deal with his own problems.

Those were the objectives which were set by the preparatory committee and which the Commission, through its Bureau of Classification Revision has sought to apply in the Classification revision program. The structure of the new system that emerged from this set of basic objectives is relatively simple. It is a framework dividing the service horizontally into occupational categories and groups, and it is illustrated pictorially on that chart which appears at the side of the room. I think we can make available, Mr. Chairman, copies of the chart if it would be the wish of the members to append it to the minutes of the meeting.

The JOINT CHAIRMAN (*Mr. Richard*): May I suggest that this chart be made an appendix to our proceedings. Agreed?

Some hon. MEMBERS: Agreed.

Mr. CLOUTIER: If I may just speak briefly, the system now encompasses what I referred to as a classified service, which comprised three years ago, about 150,000 people in various systems and now has a few more such as the prevailing rate system and ships' crews and officers, other miscellaneous systems, and these systems are now all brought into a single framework which I think can be defended and certainly can be comprehended.

It identifies six major categories. The Executive Category will be composed of individuals responsible for major policy operations in the government. These are the most senior public servants. There is the Scientific, professional category, the administrative and foreign service category, the technical category, the administrative support category and the operational category.

If I may be permitted to commend before continuing, these figures which you see on the chart are not quite up to date. The chart was prepared some time ago. I have more up to date information which I would ask the Clerk of the Committee to distribute to the members. The chart which we will make available to the Committee to be appended to the minutes will reflect the up to date figures.

The point is that here we have six major groups of employees, which are distinguished primarily by reference to the character of the functions performed,

and also to the level of formal education of their members. These categories were recognized in re-scheduling the cyclical period review system, and they are also important in the planned start to the introduction of collective bargaining in the public service.

Mr. KNOWLES: I wonder if I might interrupt to ask a question? It seems to me that, for the most part, under the heading of "collective bargaining" we have been talking about five categories. I take it that the sixth is one which does not come under collective bargaining?

Mr. CLOUTIER: If I may be permitted to say this, in terms of the classification system there are six categories. However, in Bill No. C-170—and I am at a loss to say in what section, Mr. Knowles—in the section which defines an employee there is a provision which says that an employee for the purposes of Bill No. C-170 does not include a person having executive or managerial responsibility. The correspondence here would be the executive category.

Mr. KNOWLES: So that explanation reconciles the five and six?

Mr. CLOUTIER: That is right.

Potentially, also, these categories can lead to the adoption of justifiably different approaches to personnel management for major components of the service. This is harking back again to a few comments I made earlier in relation to the manner in which one deals with different categories of employees. Indeed, this framework has already been adopted in large measure in re-organizing the staffing operations of the commission, where we are adopting different approaches to the selection of employees, in accordance with whether they fall in one or other of the categories. These are the first, primary breakdowns.

The secondary breakdowns are the occupational groups. These groups can best be explained by referring to four characteristics that will generally, but not invariably, apply to each. The first characteristic is that each group is composed of occupationally similar jobs. We are trying to resolve the dilemma between the vertical and the horizontal class and opting for a horizontal approach which puts—and again I come back to my first example—the personnel work in one occupational group, whether it is performed in the commission, in the Treasury Board, in a department or wherever else.

The second characteristic is that employees in these groups are characterized, in a general way, by the possession of similar skills and basic educational qualifications. This is in order that an employee may move, within the occupational group and between departments, with relative ease, without difficulty, and also without having to acquire a new major skill. Often it is just by upgrading one's skills that one can move and progress through one's career in one occupational area.

The third characteristic is that each group will have a separate pay plan providing a framework for a logical set of internal relativities—and, again, I think I have stressed the importance of these internal relativities earlier. This will be the essence of bargaining, really, where all employees doing the same work will be paid in accordance with one pay plan only and not, again, as I explained in relation to personnel work, in relation to six or seven different pay plans.

The fourth characteristic which relates, again, to the community of interest principle which underlies the whole occupational approach to classification is

that, as far as practicable, each group should bear a relationship to an identifiable outside market. This is necessary in order to be able to respond to quick movements in the labour market outside.

These are the basic principles which underly the classification system. I hope, Mr. Chairman, that my comments have covered the sort of things about which the members of the committee wanted more details. Of course, I will be only too pleased to answer, later, any questions that the members may wish to ask.

Before asking Mr. Anderson, the Director of the Bureau of Classification Revision to outline to you the manner in which the bureau approaches and continues to approach its work, I would like to take this opportunity, if I may, Mr. Chairman, to pay tribute to the officers and staff of the bureau.

I can think of very few groups of public servants who have been assigned a more difficult, a more thankless and yet a more important task. Mr. Chairman, I can think also of very few groups of public servants who have approached their task with greater dedication, with greater integrity and with greater enthusiasm, who have maintained such purity of purpose, such continued effort and such high morale in the face of considerable difficulties and criticisms, than have the officers and staff of the Bureau of Classification Revision. Mr. Chairman, because of the immediate and long term benefits which will be derived by the public service from this program I think that the public service of Canada stands in their debt.

Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed with Mr. Anderson's remarks now?

Mr. A. R. K. ANDERSON (*Director, Bureau of Classification Revision, Civil Service Commission*): When you introduced me, Mr. Chairman, you inadvertently referred to me as being from the Treasury Board.

The JOINT CHAIRMAN (*Mr. Richard*): I thought you were.

Mr. ANDERSON: Actually, I am a member of the staff of the Civil Service Commission. The Civil Service Act vests in the Civil Service Commission the responsibility for classifications, and the commissioners are responsible for the classification of positions until Parliament changes the Civil Service Act. The Bureau of Classification Revision is in total a part of the staff of the Civil Service Commission and is responsible to the Civil Service Commissioners for carrying out the classification revision program.

Mr. Chairman, there is, however, a classification policy group of which the Chairman of the Civil Service Commission is chairman and which consists of the three Civil Service Commissioners, the Secretary of the Treasury Board and the Chairman of the Preparatory Committee in Collective Bargaining in the Public Service. This classification policy group meets regularly and is the body responsible for deciding on policy issues and giving policy direction to the Bureau of Classification Revision.

As Mr. Cloutier pointed out in his remarks, it is the task of the Bureau of Classification Revision to erect a classification system on the framework proposed by the preparatory committee on collective bargaining in its report.

Mr. KNOWLES: Before you go into detail, could you tell us how many members there are in the bureau?

Mr. ANDERSON: Roughly 150 people on the staff, Mr. Knowles.

Mr. KNOWLES: How many of those are at the head of it? Is it just yourself?

Mr. ANDERSON: The organization, Mr. Chairman, consists of myself, as director, and three assistant directors. Mr. George Follis is assistant director of operations; Mr. Stan Cameron is assistant director of structures and standards; and Mr. Brian Hartley is assistant director of planning.

Mr. KNOWLES: And all one hundred of you are part of the Civil Service Commission?

Mr. ANDERSON: One hundred and fifty, sir.

Mr. KNOWLES: All one hundred and fifty?

Mr. ANDERSON: Yes sir; all employees of the Bureau of Classification Revision are employees of the Civil Service Commission. The whole of the bureau is an integral part of the staff of the Civil Service Commission. This must be so because Parliament has given the Civil Service Commission responsibility for classification of positions in the public service.

Mr. KNOWLES: You are assigned from the Civil Service Commission and report back to it?

Mr. ANDERSON: This is correct, sir.

As Mr. Cloutier pointed out, it is the task of the Bureau of Classification Revision to erect a classification system on the framework which was proposed by the preparatory committee, and a system which is consistent with the principles which he outlined to the committee.

There have been remarkably few changes of substance required in putting flesh on the bare bones proposed by the preparatory committee. There has been, however, an increase in the number of groups from the 66 that were proposed by the preparatory committee to the 73 that our system now contemplates.

The bureau approached the task of implementing the new classification plan on a category by category basis. If I could again direct the attention of the Committee to the charts on the display, the categories are those six big boxes inside the hexagon.

The first category that was—

Mr. KNOWLES: Octagon.

Mr. ANDERSON: Octagon? I am sorry; I cannot tell, Mr. Knowles. The first category which was converted to the new system was the administrative support category. Conversion in that category has now been completed. The next category was the administrative and foreign service category which you will see to the right of the chart just above administrative support. Conversion of that category has now been substantially completed. The bureau is now actively engaged in the conversion of the operational category. The technical, scientific and professional, and the executive categories are scheduled for conversion to the new system by July 1 of next year.

The conversion activity was essentially the same for each of the groups. It consisted of six steps. The first step was to define the group and this involved

obtaining and studying information on the work performed by people who were going to be allocated to the group.

The second step was a more fundamental study of the work of the group and this resulted in the third step which was the design of a classification plan.

The fourth step was the development of a classification standard for the group.

The fifth step was the evaluation of the positions against that standard and the final step was the preparation of a grading and pay plan.

Mr. Chairman, I have brought along with me copies of the classification standards for the groups in the administrative support and the administrative and foreign service category which can be made available to the Committee if you so desire.

The JOINT CHAIRMAN (*Mr. Richard*): Do you have copies with you.

Mr. ANDERSON: Yes, I have.

Mr. WALKER: Mr. Anderson, I notice the piece of information which Mr. Cloutier made available has "confidential" on it. I presume that it is out of date confidential because it is going in the minutes of the meeting.

Mr. ANDERSON: This is an error on our part, Mr. Chairman. It should not have been marked "confidential". It was confidential when it was first produced because some of the figures were not firm.

Mr. KNOWLES: Perhaps the press will not be so anxious to publish it.

Mr. ANDERSON: Mr. Chairman, there are two basic types of classification plans the bureau has used. One is the grade description plan that Commissioner Cloutier referred to in the course of his address. Grade description plans were used for four of the six groups in the administrative support category and for two of the 13 groups in the administrative and foreign service category.

Point rating plans—the other type of classifications technique—were used for the other groups. Point rating plans have not been used in the past for classifying positions in the federal public service although they have been used extensively by private employers in Canada. In designing the point rating plans that we have adopted, our structures and standards group studied something like 40 different point rating plans that are used by Canadian employers and some which are used by firms of management consultants that are active in Canada. We think that our point rating plans reflect the best experience of Canadian employers with the point rating technique.

The JOINT CHAIRMAN (*Mr. Richard*): One moment, please, Mr. Anderson. Before we become confused with the classification standard which you distributed I think you should explain it. These are not complete copies of all the—

Mr. ANDERSON: There are two complete copies. There is a separate classification standard for each of the groups, and I brought along two copies of each of the standards.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps it would be better if they remain in possession of the Clerk if there are only two copies; otherwise members will only have individual copies of one group. I do not know if it is the wish of the Committee to print this very large, long document but—

Mr. WALKER: I think it is a lot of material to put in our report. Mr. Chairman, I do not think it is necessary because they are there for our reference.

The JOINT CHAIRMAN (*Mr. Richard*): That is why we suggested that they be taken back so—

Mr. ÉMARD: If it is part of the report I think it should be put into the report.

Mr. ANDERSON: That is only one tenth, sir.

Mr. WALKER: This group of papers pertains to only one set.

Mr. ÉMARD: I thought that it was the general plan.

Mr. ANDERSON: No, sir, there is a separate plan for each group.

Mr. KNOWLES: So there would be 73 when you are finished?

Mr. ANDERSON: Yes, sir.

Mr. CLOUTIER: Well, that is preferred to the 700 classes we had.

Mr. KNOWLES: No, I am just thinking of the printing job.

Mr. WALKER: Mr. Chairman, if they are available for reference by the Committee I think that is all that is necessary. I do not think that they should be included in this Committee's report.

Mr. BELL (*Carleton*): I do not think that there was any suggestion that they would be. They were simply for the use of members of the Committee. I suggest that each of us should have a copy if a sufficient number has been provided. I certainly want to take the opportunity of studying this quietly.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I want you to understand that your copy for example covers only one group.

Mr. BELL (*Carleton*): I appreciate that.

The JOINT CHAIRMAN (*Mr. Richard*): All right.

Mr. ÉMARD: I would be much more interested in the operational group if I could obtain it.

Mr. ANDERSON: Mr. Chairman, at this point we do not have the approved standards for any group but one in the operational category.

The JOINT CHAIRMAN (*Mr. Richard*): Well, if members want individual copies of the one group which is available they can get in touch with the Clerk of the Committee.

Mr. ANDERSON: Mr. Chairman, I would like to acquaint the Committee with the consultation which has taken place between the bureau of classification revision and staff associations representing employee groups in the design of the classification plan and of the classification standards. The staff associations were consulted by the bureau regarding the group definitions which, of course, was the first step in the design of the classification plan. They were also consulted with regard to the classification standards. Drafts of the classification standards were made available to the staff associations and consultation meetings were held on each of the standards in order to obtain the views and the reactions of the staff associations on the proposals the bureau was making with regard to the classification standard for the particular group. A number of changes were made in the standards as a result of the consultations with the employee associations. We, in the bureau, think we have better standards because of the consultation

with the employee associations than we would have had, had we tried to develop standards without such consultation.

I think that it can be said as a general observation that the staff associations accept the standards that have been developed by the bureau as appropriate devices for measuring the relative worth of jobs in the groups to which the classification standards apply.

The staff associations were also consulted on the grading and pay plans and they expressed no basic objections to the grading plans, although they did not necessarily agree with the pay plans that were proposed.

The evaluation of positions against the standards was not done in consultation with the staff associations. Rather, the evaluation was carried out by the staff of the bureau of classification revision and by specially trained classification officers of the departments. The bureau, in order to insure consistency of application of the standards, ran special training courses which were attended not only by the bureau's own occupational analysts, but also by occupation analysts—classification officers—from the departments.

Officers of the staff associations were also given this kind of training although, as I have said, they did not participate in the evaluation of positions. The major staff associations do, however, have in their staffs trained people who are knowledgeable about the application of the classification standards.

Mr. Chairman, the consistency of the application of the standards, in addition to trying to ensure it through the training of the people who did the evaluations, was also monitored by a statistical process. In the case of most of the groups in the administrative and foreign service categories, it was further ensured by having one evaluation team. Which consisted of an officer of the bureau of classification revision, an officer of the staffing branch of the commission, and two officers from departments, who were familiar with the work of the group being assessed, evaluate all of the positions in the personnel administration group, in the financial administration group, in the purchasing and stores group, in the computer programs group, and in the organization and methods group. The results of the classification review process so far have tended to make us fairly confident about the consistency of the application of the standards. The classifications review process permits an employee whose position has been red circled to have his or her case reviewed, in the first instance by his department, and finally by the chief classification review officer who is an officer of the Civil Service Commission. Roughly a third of the cases with which the chief classification review officer has dealt have resulted in an upward reclassification of the position. This resulted in almost all cases, not because of a different evaluation on review, but because the duties that had been used as the basis for making the original conversion decision were, during the review process, found not to be the duties that the employee was actually carrying out.

The review process, therefore, has confirmed our confidence in the consistency of the application of our classification standards.

Mr. CHATTERTON: What percentage of the red circled positions did you say were changed after review?

Mr. ANDERSON: Roughly a third of those that have gone to the final stage of the reprocess. Mr. Chairman, I am like Mr. Cloutier. I would be very pleased to answer any questions any member of the Committee wishes to ask.

Mr. WALKER: I have a supplementary question. Was this one-third taken care of by re-writing a job description, or by changing the classification of the particular job that that man was in?

Mr. ANDERSON: The classification review process involves the employee going to his department and getting from the department a certified statement of the duties that his position involves. The message I was trying to get across was that in those cases in which the review has resulted in reclassification, this has been because there was an error made in the original description of the employee's job, and the conversion decision was made erroneously because the information on which it was based was wrong.

Mr. WALKER: In a case like that do you make a new job classification to fit his present duties or put him up into the next classification?

Mr. ANDERSON: We put him where he should have been had the statement of duties originally been right. We go back to home plate and put him where he should have been.

Mr. WALKER: In other words, you rewrite that job description.

Mr. ANDERSON: This is done before the review takes place.

Mr. KNOWLES: Mr. Chairman, before we get into questioning, I wonder if either Mr. Anderson or Mr. Cloutier could give us a reasoned statement about the whole business of red circling, and green circling and non-circling in relation to this program.

Mr. CLOUTIER: You refer to the whole business of red circling, green circling and non-circling. When the classification revision program was decided upon, and when the basic principles were agreed to—and again coming back to my earlier comments where I indicated that we had a maze of classes which had to be consolidated into a simpler and more accurate system; where we had a maze of salary levels with relatively minute differences which had, again, to be rationalized in a spectrum of grades with the significant difference between them—it was obvious that in some cases the individuals would not meet head-on the new level. Some would go higher and some would go lower.

At that point we examined what the practice had been elsewhere when such new classification systems were devised and implemented; and the result of our findings was that where there had been major reclassification operations the treatment afforded the employee who was, in effect, red circled—that is, whose actual rate of pay was higher than the rate that the new system would allocate to the position he occupied—was to freeze him at the rate at which he happened to be paid on that day.

We examined this in relation to the positions of the public service where a range of rates had applied to positions from time immemorial, and we came to the conclusion that in spite of a practice in industry, it made more sense in the public service setting to freeze the employee at his range of rates—in other words, to maintain his possibility of attaining the maximum rate that he would normally have attained had the classification revision program not taken place. This is the basic arrangement in the red-circling business.

Mr. KNOWLES: That would have meaning only for an employee not yet at the maximum.

Mr. CLOUTIER: That is right.

With this basic arrangement, and with the necessity of recognizing that if we were to have a classification system which could meet all the sorts of problems which I related to you earlier, then there would have to be some red-circling and green-circling; but to minimize the degree of this red-circling the pay plans were developed only after all the positions were evaluated. In other words, the primary consideration was always the evaluation of the position; so that the incidence of red-circling under various pay plans was always taken into consideration before final decisions were made on the actual grading and pay plans that were approved; an optimum situation was always sought after.

I think Mr. Anderson might have some technical details to add to this comment.

Mr. KNOWLES: Would you explain green-circling, as well?

Mr. CLOUTIER: Green-circling is the opposite. It happens where the rate being paid to an employee is less than the rate normally assigned by the new system to the position he occupies. Green-circling occurs where an individual is paid at a rate which is lower than the rate assigned to his position by the new system. Let us say, for instance, that a rate CR-4—I am guessing now—is \$5,000, and let us assume for the sake of the example it is a single rate and not a range of rates. Let us say that employee A's rate of pay was \$5200 and the position he occupies is assigned to CR-4 at \$5,000. He would be red-circled to the tune of \$200. But if individual B's rate had been \$4800 and his duties are also assigned to CR-4 by the application of the point rating system that Mr. Anderson has referred to, then that employee is green-circled to the extent of \$200.

Mr. KNOWLES: What is the result of his being green-circled?

Mr. CLOUTIER: The result of his being green-circled is that, providing that he meets the competence qualification of the position, he automatically goes to the new rate.

Mr. KNOWLES: Immediately?

Mr. CLOUTIER: That is right.

Mr. FAIRWEATHER: How many red and how many green are there?

Mr. KNOWLES: How many orange?

Mr. CLOUTIER: Actually, there are some people who, because of the aspect of guaranteeing the range rather than the rate, are called red-circled, but whom you would really say are pale pink-circled. But I have not heard of orange yet.

You asked the number of employees. Originally, roughly 20 per cent in each of the two categories that were done. Actually, it is a little less than this, because the 20 percent applies to positions but not all positions are filled; so that in terms of employees, our first compilation of employees in the administrative support category, I think, amounted to about 10,800 cases of red-circling; about a month ago it was down to about 4,300 or 4,600—4,300, I think; and we are expecting, any day now, to have the results of a computer run which would show the state of affairs as of the 15th of the month.

Mr. BELL (*Carleton*): That is solely on the administrative side?

Mr. CLOUTIER: That is right. In the administrative category the experience was about similar, but because, through circumstances, the implementation of the administrative and foreign service category took place a matter of weeks or days before the interim adjustment, effective October 1, 1966, the number of red circles disappeared very, very quickly. It is now at about 1,300 in the administrative category.

Mr. CHATTERTON: How many were green-circled?

Mr. CLOUTIER: About 50 per cent.

Mr. CHATTERTON: What about the no-circling then?

Mr. CLOUTIER: I should have mentioned this earlier. I am sorry, gentlemen. Another basic tenet of the whole approach was that the rates applicable to the new system should reflect, to the greatest extent possible, the existing level of rates. In other words, the classification revision program was not a device through which to grant an economic increase but was only a housekeeping exercise, so that in striking the rates for the new levels we examined the prospective population of a grade, and we determined what the mean of maximum of that population was, and in most cases we adopted as the new rate for the new level the existing rate which was the closest to the mean of maximum, in order to minimize in that manner the number of changes up or down, green or red circle.

Mr. CHATTERTON: Those no-circle ones do not have to pass a competence test; is that it?

Mr. CLOUTIER: No one really has to pass a competence test. This will apply, for instance, where an individual would be occupying a position which had been evaluated years ago and where the implementation of the revision program would indicate that that position, through changes, is now worth a couple of grades higher. Instead of making the change-over automatic, where there is more than one grade involved, the departments and the commission examined the record of the employee to make sure that it is in the best interests to bring that employee up right away, or it might mean that he does not quite meet the experience requirements which normally attach to this level of grade.

The JOINT CHAIRMAN (*Mr. Richard*): Are we proceeding still on this red-circling, because some gentlemen have asked to be heard on the general questioning.

Mr. WALKER: Where does the determination of establishment come into this or do you run right into it with re-classification? In a small office where you might have had five jobs of the one category, under re-classification one of these jobs may be red-circled and the other four left. Is the determination of the number of jobs of the establishment part of it?

Mr. CLOUTIER: No, not at all.

Mr. ANDERSON: No, this is not the job of the Bureau of Classification Revision, or of the Civil Service Commission.

Mr. BALLARD: Mr. Chairman, may I ask a question on the subject?

You said that there was no economic increase. How do you account, then, for only 20 per cent of the positions being pale pink-circled and 50 per cent being green-circled? It would seem to me that you have not got a normal curve there, and that probably the mean which you are talking about is weighted; is that right?

Mr. CLOUTIER: It is a weighted average—the mean of the maximum that went into establishing the original rates.

Now, I said that they were no part of an economic increase in the establishment of rates in the classification revision program, because we looked at the rates that existed before any consideration of economic increase. Indeed, the new rates produced by the classification revision program were subject to the subsequent economic increases.

Mr. BALLARD: At the moment of change, though, the over-all cost of the public service did not increase?

Mr. CLOUTIER: It does, because of the green-circling; but this is just a housekeeping operation. This is just putting our house in order before granting the economic increases. In other words, I indicated we had a maze of classes and grades. Let us say that in the administrative support category we had 150 individual classes and now we have just six groups. In other words, each of the old classes had a pay scale and each of the new ones has a pay scale, but in converting we establish six new pay scales reflecting the level of the rates of the 150 that existed before. Once these are established the economic increases are given to the six new ones and not to the 150.

Mr. WALKER: You said there were more green-circles than red-circles under this re-classification?

Mr. CLOUTIER: Yes.

Mr. WALKER: Is this job of re-classification a continuing process?

Mr. CLOUTIER: It is a continuing process inasmuch that as duties change in a department duties should be re-evaluated. To the extent that duties of a position change, let us say, every six months, then the new duties would have to be written up and evaluated against the standards to which we referred earlier.

Mr. WALKER: This re-evaluation may reduce still further the number of residue red-circles?

Mr. CLOUTIER: Yes, it might; it might very well.

Mr. KNOWLES: When you finish a category such as the new administrative support one, is it the case that everybody in that group has either been red-circled, or green-circled, or knows that he is not circled at all?

Mr. CLOUTIER: Right; and, indeed, the arrangements have provided for each employee to be advised in writing of his status in relation to the new classification revision program.

Mr. KNOWLES: Including those that are not circled at all?

Mr. CLOUTIER: Yes.

Mr. KNOWLES: They are so advised?

Mr. CLOUTIER: Yes. That figure which I mentioned earlier is not accurate. In the new administrative support category there are 57,085—a total of 57,340—so that in relation to that category, assuming that all these positions were filled, there would have been 57,340 employees advised individually in writing of the disposition of their positions as a result of the classification revision program.

Mr. KNOWLES: And this has been done entirely only for that one category?

Mr. CLOUTIER: The same thing has been done and has also, been completed in the administrative and foreign service category, with the exception of the commerce, foreign affairs and translation groups, which will be implemented on July 1, 1967. In other words the conversion has not yet taken place in relation to those three groups. But, in relation to the administrative and foreign service category, if you look on the second page of this paper, they have all been advised individually.

Mr. KNOWLES: Therefore, you do not wait for an entire category to be completed before you let the individuals in the different groups know?

Mr. CLOUTIER: Oh, yes, we do; I mentioned in my earlier comments the necessity of ensuring internal relationships in the service, and while we have proceeded in the first two categories on the basis of devising a standard—a grading and pay plan—for each group, we have, in effect, accumulated them and implemented them all at the same time, for this reason, that once we have devised pay plans for all the groups, then we have to look at all the groups together to make sure that the relativities between the levels in the various groups make sense. If we were to proceed group by group then we might end up with a system which is lop-sided.

Mr. KNOWLES: Then have you or have you not, notified the people in the administrative group, other than those three groups?

Mr. CLOUTIER: We have.

Mr. KNOWLES: All but those three have been notified if they are red, green, orange or blank?

Mr. CLOUTIER: Yes.

Mr. CHATTERTON: You advise them as soon as the group has been completed, or the whole category? The whole category must be completed before you advise the employees?

Mr. CLOUTIER: That is right.

Mr. CHATTERTON: But you did not do it in the administrative and foreign service category?

Mr. CLOUTIER: The three groups which are singled out here will be implemented next July. They were originally in the A group, whereas most of the others were in the B group; so that in order to change as little as possible the normal expectations of the employee, in terms of the dates on which salary revisions take place, we have devised a transition from the old A, B, C, D, groups to the new categories, which would disrupt the expectations of the smallest number of employees, and which would also ensure, in view of the expectations of the past, that no employee would go for more than 24 months without a review.

Mr. ANDERSON: Mr. Chairman, a point of clarification here is that it is the responsibility of the deputy head, for whom the employee works, to inform him of the effects of the revision classification program on the employee, not the responsibility of the bureau or of the commission. This is done through departmental channels.

Mr. CHATTERTON: May I ask you, Mr. Anderson, how were these descriptions of duties for each individual prepared. Were they prepared by the employee himself?

Mr. ANDERSON: In many cases by the employee himself, but not in all cases. The departments, in some cases, in their examination of the work of a group, decided that a group of positions were essentially similar, and rather than having each and every one of a thousand or more employees write a job description the department wrote a standard job description which covers the work of all those employees.

Mr. CHATTERTON: In the cases where they were red-circled the employee has a chance to have it reviewed?

Mr. ANDERSON: Yes, sir.

Mr. CHATTERTON: In the nature of people and of departments there would be an inclination to over-state their duties. Is it not possible, since you say that roughly 20 per cent had been red-circled, that many of those who have been green-circled ought not to have been green-circled? Is there no provision for review of those?

Mr. ANDERSON: We think not, sir.

Mr. CHATTERTON: They are not going to appeal if they get too much, you know.

Mr. ANDERSON: We think the process of examining the work and of evaluating positions against the standard was sufficiently well done that we can be reasonably confident that where a position has been red-circled it belongs at the level that red-circles it, and similarly for green-circled positions.

Mr. CHATTERTON: You said that usually the case of the red-circling or the correction of the red-circling, was the more correct description of duties; is that right?

Mr. ANDERSON: Yes.

Mr. CHATTERTON: Well then, could there not have been the same error in the original description of duties for those that were green-circled?

Mr. ANDERSON: This is certainly possible, and we have not any built-in device to correct it as we have in the case of the red-circled.

Mr. CHATTERTON: May I ask, Mr. Chairman: Do you have available, for instance—not in all the groups, but in a few of the groups—two or three of the previous positions which are included in the administrative trainee group? Can we have that to give us an idea of the variation of previous positions that were included in one group?

Mr. ANDERSON: We have this for all groups. Unfortunately, I did not bring any of them with me. This could be made available to the Committee.

Mr. CHATTERTON: I would appreciate that.

The JOINT CHAIRMAN (*Mr. Richard*): I have asked Mr. Anderson to let us have a few examples.

Mr. CHATTERTON: We can take it, then that every person in the financial administration group will receive the same pay.

Mr. ANDERSON: No, sir. There are eight levels in the financial administration group.

Mr. CHATTERTON: They all have the same starting and end pay?

Mr. ANDERSON: Everyone who is at the given level gets paid in the same salary range. There are four steps in the range and each individual is at the step in the range that is consistent with the rates.

Mr. CHATTERTON: There are four steps in every range?

Mr. ANDERSON: Yes, sir.

Mr. CHATTERTON: And this applies to every group?

Mr. ANDERSON: There is the exception—and I am not sure that I have all the exceptions in mind—that is an administrative training group and there are more than four steps in that range.

In some of the groups in the administrative support category there are more than four steps, and I seem to recall that in the organization and methods group, and, perhaps, in one or two other groups in the administrative and foreign service category, there are six or seven steps—steps added at the bottom—to take care of the training requirement of getting people in who are not qualified to do work, and this is reflected at the bottom step in the proper range.

Mr. CHATTERTON: Mr. Chairman, these previous prevailing rate employees are now included in these categories the same as every other civil servant?

Mr. ANDERSON: I think all of them will be in the operational category.

Mr. CHATTERTON: Is there going to be any variation of pay by region?

Mr. ANDERSON: This is a point which has not yet been decided. The bureau is working on the assumption that there will continue to be, for this kind of person, some form of regional pay.

Mr. CHATTERTON: But will you be able to distinguish those positions that are of a prevailing rate nature within the groups?

Mr. ANDERSON: We visualize that there will be a pay plan for each group in the operational category. There is a group called general labour and trades to which a very high proportion of the existing prevailing rate employees will be converted.

There is another group called general service, and it also will have a substantial population of people who are now prevailing rate employees.

There is a third group called hospital services, and we visualize this as being a regional pay group.

The ship repair group is, I think, composed entirely of prevailing rate employees, and we anticipate that it will continue to be regionally based.

Mr. CHATTERTON: What will establish whether the employees of a certain group will be paid on a regional basis, or not. Who will establish it, and how?

Mr. ANDERSON: I would think that this will be established by the composition of the employees who go into the group.

There is, for example, in the operational category a postal operations group. Now, all the postal workers, at the present time, are on a national rate, and we would anticipate that this will continue to be the case in the new system.

In the general labour and trades group there will be a mixture of people who are now prevailing rate employees and people who are now under the Civil Service Act, and this is one of the problems that the commissioner referred to in his opening remarks. A means has to be found to marry these two opposite systems together.

Mr. CHATTERTON: Take this general labour and trades groups, or better still, take the ship repair group: What agency will establish whether there will be a differential in pay by region between say, the Pacific coast and Atlantic coast?

Mr. ANDERSON: The fundamental answer to this is that it will be the governor in council. The government will have to decide.

Mr. CHATTERTON: Therefore, if that particular group is certified as a bargaining unit, would they then presumably bargain for all their employees, or would they bargain for the differential between east and west?

Mr. ANDERSON: This, I suppose, would be up to the parties.

What the bill will produce, we hope, is a pay plan which will replace the existing pay plans before the first round of bargaining.

Mr. CHATTERTON: You would then end up in the position that certain of what used to be classified positions are subject to regional differential and others would not be?

Mr. ANDERSON: Yes; if there is a group which has a regional pay system, and there are allocated to that group positions which are now under the Civil Service Act at national rates, this would be so, yes.

(Translation)

Mr. ÉMARD: I would have liked to receive the classification standards applicable to operational employees since this is the category I know best. I would like to judge the value of the plan which the Civil Service Commission is going to bring into operation. In Industry, four plans prevail; the plan you have here, description of jobs, the system of point rating that you intend to introduce. The Point Rating is the one which attributes a certain number of points to each labourer in the case of manual employees, there are some points such as dexterity, education physical competence and so forth that are brought in, points that are applicable in each rating. When we have added up the value of the factors, we get a grade, if I understand, and after that, that grade is bound to a pay scale. This is a project that is much superior to any other plan. It is a project that has been in force for many years. It is quite easy to apply and I wonder why the Civil Service Commission has not brought this into effect.

Mr. CLOUTIER: The problem that arose is simply one of resources. Mr. Anderson has explained in the reply to question of Mr. Knowles that the classification bureau had 150 individuals who are putting in effect the revision programme. When we instituted the Classifications Bureau, we recuperated so to speak, we made an inventory of all the officials who had classification experience

in the Civil Service, so as to set up the structure for the Classifications Bureau, and we noticed that the total number of individuals at that time who were in charge of the application of classifications were 40 to 45. To answer your question, it is a lack of resources, secondly, it is clear that a reclassifications programme as broad in scope as this one, is not invented between one day and the next. I am led to believe that if it were not that we are going to have collective bargaining, we would not have had, we would still not have succeeded in getting the resources essential to make the classification system. I would like to make a supplementary remark. I was explaining that the number of classes and grades have greatly changed over the course of the years. In 1946, there were 3,700 but even if basic reforms had not been undertaken over the course of the past few years before 1964, you must admit that the number of grades have shifted from 3,700 to 1,700 in 1963, so there was a continuous work of rationalization and reform. But this rationalization could not be done coherently unless we began from base.

(English)

Mr. CHATTERTON: On a point of order. Did you say, that in the year 1963 there was 7,100?

Mr. CLOUTIER: It was the other way around; it was 1,700.

(Translation)

Mr. ÉMARD: You mentioned that you contacted certain companies to judge the different systems that are in effect at the present time? Could I ask you if you got in touch with the Bell Telephone and Northern Electric?

Mr. CLOUTIER: You have asked me a very embarrassing question. I could not tell you, whether we did have discussions with those two companies. The Pay Research Bureau since its inception has based its research on classification and pay systems in a number of companies, obviously in the biggest companies in Canada. I recognize that the two you mentioned are in the front rank of biggest companies. It is probable that these two companies were indeed the companies in which there was research conducted but I cannot reply specifically.

Mr. ÉMARD: I can tell you that Northern Electric has the same system as Western Electric, and as I understand Western Electric has had the Point Rating System for over 40 years. You mentioned that you got in touch with the steel workers. The steel workers have the co-operative wage study. Does that mean that you intend to establish the co-operation wage system, evaluation of jobs, by unions and the Civil Service Commission jointly.

Mr. CLOUTIER: The Civil Service Commission if Parliament adopts the Bill will no longer have any role to play. We have had the services of a senior officer of the steel workers for a 4-month period in the preparatory committee, not to determine the manner in which we will be implementing the system, but solely to examine the basic principles that should be reflected in the system. The individual in question had been with the preparatory committee from September to June. The Preparatory Committee was only in the stage of developing principles and goals and it was not at all discussing implementation.

If I remember rightly the question did not arise in any practical manner.

Mr. ÉMARD: I trust the Commission will not adopt the attitude of certain companies that their plan is perfect as there are certain weaknesses even in the best plan. For instance, you mentioned that one of the characteristics of this plan was decentralization. Well, now, decentralization implies that people who are going to allocate points and evaluate jobs are not always the same. There are some who have a tendency to under-evaluate, and others tend to over-evaluate. What happens is that when the employee is in the same region and does not move from one place to another, it does not matter. But when the employee is transferred from one locality where has been evaluated by one group and goes to another locality where another group has evaluated him, there may be differences in evaluations which arise, a difference in the evaluations of the employee's work, and this is one of the weaknesses I would like to mention, and for your information I would like to suggest to you that there is an excellent book published by the union called "What is Wrong with Job Evaluation", published by The American Labour federation 7 or 8 years ago. You would benefit by examining this book.

Mr. CLOUTIER: If you will allow, you have raised two points. I want to re-assure you that the Civil Service Commission and the Classifications Revision Bureau understand the need for maintaining its classifications up to date. Our goals include the establishment of a section comprising experts whose main job will be revising and adapting according to our needs, the classification standards.

The second point that you mentioned is a problem of delegation. I want it clear that the classification system which we are implementing will enable the delegation because as you said, this point rating system is clear and easy to understand, and that is defensible. It permits delegation, but does not automatically imply a delegation. I was only speaking of the system. To ensure fair delegation of authority, in the past we have done a great deal of work to establish a sensible system. It would be quite illogical if we were to delegate without monitoring the delegation. To ensure this, we have officials in the classification office who are training officials from the Department to be in charge with revising classifications in departments. There is constant training in the classifications Bureau, there is a constant interchange of personnel between the bureau and the Department to ensure that people who are administering the system will have acquired experience of the system and will be well aware of all its ramifications and will have taken part in its implementation.

There is another point too. You mentioned the case of the individual who is higher than another in regards to this case, this is very true but to settle this we have adopted a basic policy that no evaluation of every job is ever done by a single individual but by a Committee of three in order to provide an equilibrium. Insofar as the book "What is wrong with Job Evaluation", if we do not have it in the library we will be getting it soon.

Mr. ÉMARD: There is another thing I would like to point out. You have had some difficulties too with trades. At the present time you have no apprenticeship plan, but I think that as there is going to be collective bargaining shortly, I am quite certain that the unions are going to ask you to establish apprenticeship plans for different trades. At the present time what prevails in industry is not job evaluation, but evaluation of employees, that is evaluation of the apprentices. What frequently occurs as in the case of trades, there is automatic

progression that is an apprentice who wants to learn to be a plumber, works 6 months in a certain category of work, 6 months later he goes into another category. I wonder how you are going to go about applying the evaluation of jobs in the case of apprentices who are going towards a certain trade.

Mr. CLOUTIER: At the present time, there are training plans for apprentices although maybe only in one locality in dry docks in Halifax and Esquimalt, and to the extent that these plans are not in effect, the standards of classification and the pay levels that we will be establishing for dry docks will reflect these needs, but because the programme for revision of classifications does not aim at remedying all of the evils to be found in the system, we are only using the system now in effect. In other groups there will probably not be a special provision for apprentices.

If through collective bargaining we get training in other groups, then standards will have to be changed to recognize this new system and the pay levels will be changed to meet the situation.

Mr. ÉMARD: What are you going to do in the case of the computers, I do not know of the French word. You are training certain employees, government employees going in today with no training and you have another employee who has been working for three years and who knows the work very well, how are you going to do to differentiate one from the other?

Mr. CLOUTIER: You are referring to what we call computer systems. That group covers eight training levels, six I am sorry. Mr. Anderson referred a minute ago to the fact that in most grades there are four levels. In the group of computer operations there are six levels. These six levels answer the question; training is taken into account. A person with less experience but with aptitude is put in at the first level of the first classification. The person that has been in for three years, if his job evaluation is at the first grade, he is still at the first grade but probably is several stages further ahead. The difference in wages is reflected in this way.

Mr. ÉMARD: In your salary scale will you have automatic progression every six months?

Mr. CLOUTIER: It varies. This is one of the possibilities that the dividing up into six basic categories permit a different approach in regard to different employee groups. In the administrative support category, we now have automatic progression that is built in. As Mr. Anderson said at most levels there are four steps. In the administrative and foreign service category, we have begun implementation of merit pay. It is at the senior levels that progression is no longer automatic. Progression is on the evaluation of performance, in other words, if the individual gives a better performance his progression is accelerated. He has a greater annual increase than if he only gave average performance. If his performance was below average, there is provision for his progression to be slower.

Mr. ÉMARD: In your merit plan (I refer to the manual workers), do you intend to grant wage increases based on the merit apart from the wage he will get for his category?

Mr. CLOUTIER: At the present time, systems do not provide merit increase in that category. There is no group of employees in that category who now get progression by merit. Wage increases are decided annually, they are based on merit to the extent that the Civil Service Act provides that if the individual is not competent he gets no increase, so it is merit in reverse if you like, it is automatic. The prevailing rate employees are paid at a sole rate in that category.

Mr. ÉMARD: In Bill C-170 it is mentioned that job evaluation cannot be arbitrated. Will a job evaluation be contested by the employee?

Mr. CLOUTIER: At the present time there is a system of review as Mr. Anderson indicated for our employees who are red circled.

Mr. ÉMARD: With the new Bill C-170 when it is adopted, will the employee be able to contest the job evaluation in his case?

Mr. CLOUTIER: It is difficult to make any forecast with regard to the implementation following collective bargaining. All I can tell you is that the only means of review now available is the one we have referred to.

Mr. ÉMARD: Do you intend to do as in certain industries, when the job evaluation system has been established, you have the description of the job which is complete according to the evaluation that you have made of it, what happens is the description of the job is given to each employee and he may revise and make corrections. Do you intend to have this system?

Mr. CLOUTIER: That aspect of the work is now being handled through departments. This is the procedure in federal departments, there are other procedures used in other departments to ensure correct job evaluations.

Mr. ÉMARD: I wish you good luck, I hope it will be successful, it is quite a step forward.

(English)

Mr. FAIRWEATHER: With respect to the variation of pay for regions—and I do not ask this in a provincial attitude at all—it would then remain civil service, permanent force, in other words? Is there such a thing as “prevailing rates”? Wait, that is a poor way to put it. Are there variations of pay for people, say, in Saint John, New Brunswick and in Ottawa, and Winnipeg, and so on?

Mr. CLOUTIER: The only provisions now, in what you refer to as the classified service, that permit a different recruitment at different rates and advancement at different rates applies in the nurses and, I think in the hospital orderlies, and—is there another class? I do not think there is another class, but I stand to be corrected on this.

Mr. KNOWLES: Why is it hospital orderlies in Winnipeg?

Mr. FAIRWEATHER: What is the rationalization on this?

Mr. CLOUTIER: The rationalization is that in hospital work there has developed—again I come back to the first principles of internal relativity—over the years, in the private sector, a whole set of internal relativities which are extremely precious from the viewpoint of the employers for whom they work.

The bulk of the hospital employees in the hospital services are in the prevailing rate area on the outside, and the compression that was taking place in

hospitals between the rates of the lower skilled jobs and the nursing orderlies and the nurses were, in effect, resulting in a situation where it was—I will not say impossible, I will say—extremely difficult to recruit and retain our staff. In recognition of this problem, and forced by the compression of the prevailing rate arrangements, the commission, after consultations with the staff associations, recommend to the Treasury Board an arrangement which would permit some recognition of these local labour market differences.

Mr. FAIRWEATHER: You would not expect for a minute that when collective bargaining becomes part of our way of operating the public service that those who are responsible for collective bargaining from the point of view of the employee would put up with this for very long would you?

Mr. CLOUTIER: Well, this again is very difficult for me to answer but perhaps I could answer it this way. If I were in that role I would find no difficulty in producing a fairly good argument.

Mr. FAIRWEATHER: You are quite unrealistic, I would suspect. I cannot imagine this going on.

Mr. CLOUTIER: Well, this is what I mean; in the place of the employee organization.

Mr. FAIRWEATHER: Oh, yes, I see. I do not think it is the proper thing in the public service at all. I just hope that collective bargaining will bring it to an end.

Mr. KNOWLES: Mr. Chairman, my first question is a very simple one. When I look at this breakdown of the categories into groups I notice that in most cases the groups are given to us in alphabetical order but not in all cases. I would like to know whether in the case of the executive category it is alphabetical or in terms of importance.

Mr. CLOUTIER: Alphabetical.

Mr. KNOWLES: In other words, there are not more chiefs than Indians in the executive category.

Mr. ANDERSON: No, sir.

Mr. KNOWLES: My next question borders on the matter which was discussed with Mr. Fairweather and in part with Mr. Émard. Mr. Cloutier, may I go back to your earlier description of the patchwork nature of the system as it now exists and your statement that it was an objective to get over this or at least to minimize the number of patches on the quilt. Would you try again to harmonize the concept of horizontalism—if I may use that word—with two other things: regional variations and departmental autonomy. In other words, the question I am putting to you is this: Is there not danger that despite your desire to have a horizontal arrangement across the public service, these other two things, regional variations and departmental autonomy, break it down.

Mr. CLOUTIER: Well, I do not think there is any problem in relation to regionalism. We have, or at least the bureau is producing a structure—a classification and grading structure. Now, to this structure at this point in time is attached only national rates, by and large. If it is the product of collective bargaining to—let us take any group; let us take the clerical and laboratory

groups—if it is the outcome of collective bargaining that there should be four regional rates across the country, well, the same classification system, the same classification standards, the same grading plans in relation to the application of the classification standards can still apply throughout the country. But, through that central system which, again, I emphasize it is important to be able to understand, comprehend and defend, to that structure you would attach four rates: one that would apply in zone one, two, three, and four. Indeed, this is the premise on which we are proceeding.

In relation to departmental autonomy, I think that this is a question which could be more properly answered by officials of the Treasury Board but I will take a swing at it. I might say that the constitutional arrangements, as I understand them, in relation to the preparation and the administration of the budget provide a role—a centralized role—and, on this basis, the requirement of a central approach to the pay determination process. Indeed, the pay determination has always been, or at least for a great number of years, a matter for Treasury Board attention even though in a few very isolated instances there are provisions that would allow a decentralized approach if it was still administered sensibly. So that on a departmental basis, once the funds are provided for the payment of salaries, then the arrangement would provide for the utmost respect for departmental autonomy in the application of the system.

The other problem was that if the system were to allow variations—let us go back to a clerk 4, for instance, who was doing ostensibly the same work in a place like Ottawa where there are 75 or 80 departments or agencies or boards of commission—if the system were to allow variation in the pay of this clerk 4—in another respect, I think we would be in as much of a chaos as we were under the previous classification system for other reasons.

MR. KNOWLES: Well, Mr. Cloutier, you have expressed precisely the fear that prompted me to ask this question. Now, I can see that in the case of a clerk grade 4 or lower, there will be a level arrived at. You have given us a picture in all of this, and other witnesses have done likewise, of the deputy heads of departments being smart businessmen who are each trying to do a good job. Now, will the authority given to these deputy heads to improve the efficiency in the operations of their departments make it possible for them—let us not talk about clerks grade 4 but let us talk about the scientific and professional, technical or administrative people—would it be possible for them to produce variations so that the scientific, professional, technical or administrative man in one department might be getting a different level of salary than the same man in another department because of the arbitrary action of the deputy head.

MR. CLOUTIER: There is, of course, a possibility of this but, there is also an endeavour to have consistency, and arrangements have been and are being made to ensure consistency across departmental lines. Consistency across departmental lines is required for two reasons. One, is that in principle the public service is one, and two is that for purposes of career development—looking at an individual as an individual and his career as his own personal development—there is a requirement to make possible the movement of the individual throughout his career between different departments to broaden his interest, his development, horizons and so on, and indeed to prepare better and more experienced executives and managers of tomorrow. In those areas where there is provision for discretion on the part of the deputy head in the application of performance pay,

for instance, pay progression based on performance, there is also provision for some sort of an over review of these cases to ensure consistency.

Mr. KNOWLES: By whom?

Mr. CLOUTIER: By the central management. At the present time it is done by the Civil Service Commission because the commission by the present Civil Service Act has the responsibility both for promotions and pay administration. In the world of tomorrow, if it comes to pass, the Commission—

Mr. KNOWLES: I hope it does.

Mr. CLOUTIER: I hope it does too, sir. In the world of tomorrow, the Commission would maintain a very real interest in the performance of these senior public servants so that when the time comes for a promotion, it can act "*en connaissance de cause*" in the the knowledge of fact, the knowledge of the performance of this individual, but pay administration will be the responsibility of the Treasury Board, therefore, these decisions would have to be arrived at jointly.

Mr. KNOWLES: Therefore, the Treasury Board will be the body that will be the guardian of consistency in these things.

Mr. CLOUTIER: With the Commission as a close second.

Mr. KNOWLES: I do not want to be interpreted as questioning the idea of delegated authority; or downgrading it, I am just trying to get the picture. It seems to me that while a good deal has been made of departmental autonomy and delegated authority, as we ask these various questions, it becomes clear that that autonomy is under limitations. I just express concern for the consistency of pay levels and how it is protected. The meaningfulness of departmental autonomy wanes a bit, does it not?

Mr. CLOUTIER: I would like to suggest that the deputy heads, at least those I have talked to, welcome this monitoring system, because they realize the necessity of their departments, not necessarily being ahead, but not lagging behind the rest of the community. They realize that they are the tenants of tomorrow. If they are going to be as good and efficient and as solid to lean on as they would want, they would ideally have to be the product of a career with the widest possible background of experience. In my judgment, there is no great problem there. The monitoring—let us call it monitoring—is essential to ensure that the standards established centrally are adhered to, or else we are kidding ourselves by producing a classification division program, if we are not right now taking the necessary steps to ensure that this system will continue without being eroded.

Mr. KNOWLES: They are all going to have autonomy, but they had better all come up with the same level of efficiency.

Mr. CLOUTIER: Hopefully, I would say so.

Mr. KNOWLES: Mr. Chairman, just one other question and it advances off into or back into another subject, namely that of red circling. I think it would be only fair for me and others of this Committee to say that most of you gentlemen have made an excellent case this morning for the recasting of the whole picture to get over the patchwork nature and all the difficulties and so on, but I hope you

will realize that it is not inconsistent for us to approve of what you are doing, but to be pretty concerned about the feelings that red-circled employees have about the whole matter. There is nothing new about this; it is the old story of progress. Every time there is progress, all right, you cannot stop it and, you do not want to stop it, but you do have to be concerned about the effects of progress on people at the time. Automation in industry, run throughs on the railways and all the rest of it. I just wonder whether you have taken enough steps to make sure that the morale of the employees affected by these changes is protected. You admit that the red circling was 20 per cent, but morale once hit is pretty hard to get back.

Some hon. MEMBERS: Hear, hear.

Mr. KNOWLES: That is 40,000 people in our public service of 200,000.

Mr. CLOUTIER: No, I am sorry, this applies in the two categories that we have mentioned.

Mr. KNOWLES: But the others are due for it.

Mr. CLOUTIER: There is no indication that the same pattern would follow. For instance, in the scientific and professional category, where there is much less confusion in the existing classifications, if I may be permitted a wild guess, I would expect that the rate might be lower.

Mr. KNOWLES: All right, but the number is only 9,000, compared to 97,000 operational and 46,000—

Mr. CLOUTIER: I was referring not only to your 40,000, sir, but to your 20 per cent figure.

Mr. KNOWLES: All right then, cut my figure in half and let it be 20,000 employees of the public service who have their morale hit by this experience. Now, you have tried to protect it. Red circling in itself is supposed to be a device that gives the employee what he has now got and it gives him his increases if he is not yet at the maximum, but I know Mr. Bell has had far more people talk to him than I have, but if he has he is busy.

Mr. BELL (*Carleton*): I have heard nothing else since July.

The JOINT CHAIRMAN (*Mr. Richard*): You could include me also, Mr. Knowles.

Mr. KNOWLES: Yes, Mr. Chairman. As I say, I just wonder whether the Commission and the B.C.R. have done enough to protect the morale of these people who are affected by what I am prepared to admit is a desirable changeover. When you get our protests and get our questions about it, this is what we are concerned with, just as we are concerned about the employees on the CNR when there are runthroughs. We are concerned about automation; it has been going on for a long time, but do not ride roughshod over the morale of your employees.

Mr. CLOUTIER: Let me assure you that if the public service had not been in dire need of this classification revision program, the spectres of the personal problems caused by this classification revision program would certainly have been enough to warrant our not undertaking it. I think that this might be in answer to Mr. Émard who earlier was asking: Why did the Commission let the old system go so long? This is affecting human beings and it is not an easy

decision to take to get on with a program like this. Things were at a state where the very efficiency of the public service, as a whole, was involved and this was a greater requirement. The requirements of the public service had to take primacy. Having said this, let me assure you that we have, from the very beginning, actually racked our brains and put into effect every possible arrangement to alleviate the problems of the red-circled individuals. Even before there were any red-circled employees and it was just concept, we had decided that we had to be more humane than perhaps experience elsewhere had been and, we had to red circle the range, not the rate. Since then we have been—as new means can be developed—attempting to reduce this problem to a minimum. In this respect, I think it has now been going on since individuals have found out that they were red circled. We have a meeting with the staff associations every week—as a matter of fact, we have a meeting tomorrow morning at eleven—to discuss the problems and ways and means of improving it. I do not think we have missed a meeting every week, since that time. Our officers in the bureau, and, our officers in the staffing branch are as much concerned about this problem as I am sure you all are. We are putting everything into effect that comes to mind in relation to solving this problem.

Mr. KNOWLES: Your philosophy is excellent, Mr. Cloutier, I accept and would support your proposition that unless we make these kinds of changes life in the civil service could become intolerable, just as I accept automation and computers. We will not get to the world of tomorrow unless we do have these things. But, I just want to put the emphasis on being humane, along the way, to the people who are affected. A moment ago you talked about individuals. Well, this is the coux of the thing; it is the individuals in all these charts and figures and all the rest of it, we can understand and to use your word, comprehend, but it is the civil servant who feels this change-over gave him a raw deal that is our concern. I need not give you examples you know the kind that have come to our attention. I would just urge you to keep up your concern for the individuals who are hurt in the process.

Mr. CLOUTIER: Let me invite suggestions from any quarter as to what we might do further to reduce this problem.

Mr. HYMMEN: Mr. Chairman, I have one question I would like to ask Mr. Cloutier or Mr. Anderson but before I do so I would like to say I feel quite sure that this session has been most instructive in explaining the duties and responsibilities of the bureau and also the tremendous amount of work involved in preparing 73 volumes like the one I have in my hand. My question was referred to briefly and was asked specifically by a witness who appeared before the Committee last week. This has to do with description of duties in the job evaluation which is the very basis for classification and also for salary scales. This question was raised by a representative of the ships' officers. Since we are introducing a brand new field here and if on when—I think I should stress the when rather than the if—Bill No. C-170 is brought into effect we certainly want to make the transition period as painless as possible. If there are areas of contention at the moment regarding description of duties and job analysis, has every opportunity been given to reconsider this and make the proper decision irrespective of what will take place in the future under collective bargaining

because we all know there is no provision under Bill No. C-170 or any other legislation for collective bargaining to go on before certification.

Mr. ANDERSON: Mr. Chairman, the bureau has worked on the premise that it is the responsibility of departmental management to organize the department and to allocate duties to positions. We have, therefore, accepted the statement of responsible departmental officers that the duties of a position are as stated in a questionnaire. In many cases, as I said earlier, Mr. Chairman, the original questionnaire was prepared by the individual employee and reviewed by a responsible departmental officer who certified the statement of duties as being correct. We have not thought, Mr. Chairman, that it was our business to try to referee disputes between a responsible departmental manager and an employee about what the employee is supposed to be doing. If management says that these are the duties of the position, we have accepted this as being correct from the responsible source and if the employee said that he was doing something other than this, there is a dispute, that is to say between the departmental management and the employee, we have not felt that it was our business to try to resolve this kind of dispute.

Mr. BELL (*Carleton*): I wonder if I might ask Mr. Cloutier to comment on the feature of this whole matter which troubles me most. That is, the previous classifications were laid down from time to time by the Civil Service Commission; all the classes, all the grades were the product of the work of the Civil Service Commission over the years. Yet, on this review, from the evidence given this morning, it is evident that the Civil Service Commission has been wrong in 70 per cent and right in only 30 per cent. They were downgraded 50 per cent and they upgraded 20 per cent. In other words. There has been 70 per cent marginal error in past operations. What confidence can we have that under the new Bureau of Classification Revision the batting average is going to be any better? What assurance can we give to the ordinary civil servant that there is going to be any greater wisdom in the existing review than there has been in the past under very distinguished members of the Civil Service Commission.

Mr. CLOUTIER: Well, I think, in answer to this question, Mr. Bell, I would like to say first of all time changes—not time itself but over a period of time—the duties of positions change. It does not follow automatically that the position is re-examined periodically by the classification authority. But, more directly to this worry that you have expressed, is the fact that I do not think because we have a new system which has produced originally 20 per cent red circling and 50 per cent green circling, it is an automatic conclusion that the classification actions under previous systems were wrong.

Mr. BELL (*Carleton*): Why not?

Mr. CLOUTIER: Because simply they were made under a different system which recognized different levels and to the extent that, again coming back to the example I gave earlier of a class which had 13 grades from \$5,000 to \$15,000, the individual classification actions in respect of that system which had 13 grades might have been all 100 per cent correct but, because the new system in the same amount of money contemplates only seven grades in this same range there is, of necessity, a need for compression. This is one factor, the compression of the levels. Apart from that is the fact that while this old class might have applied to

only one department—the one I have in mind did apply only to one department—so that the factors in arriving at an evaluation were influenced only by the circumstances in that one department. This was financial administration.

Now we have a financial administration group that covers the whole spectrum of the public service, all operations, and the factors that come into play are of necessity different. Not only are the factors different. The techniques are now expressed in such way that the employee, given the standard, can make sense of it; whereas, under the old system the application of the standard, required, as I mentioned earlier, years of experience in the classification field.

You have raised another point and you said what is it in the new system—if I am interpreting you correctly—that gives confidence to the employee about the wisdom of the future classifiers.

Mr. BELL (*Carleton*): That the batting average is going to be better than it has been in the past.

Mr. CLOUTIER: Yes, well I am not admitting that it has been all that bad in the past and I am not admitting that it will be 100 per cent in the future: everybody makes mistakes. But, I would think because the technique used in most of these groups is now clearly laid down and can be understood and can be defended, I think the chances are that the classification decisions reached in the future will find a larger measure of acceptance by the people involved.

Mr. BELL (*Carleton*): That leads me to my next point. It has been alleged to me that different systems of job evaluation have been used within a single group: for example, in the administrative support category in some cases the point rating system has been used within a group and in other cases a totally different system has been used. Therefore, across departments there is no uniformity at all.

Mr. CLOUTIER: This is so and in the administrative support category we use a grade description method in the telephone operators group and communicators, because the previous system was simple and there was not a great consolidation of classes and it made sense to continue to use the same approach in these two cases. It is where you have a wide variety of past indifferent circumstances the point rating system becomes indicated; but in these other cases where the jobs are more standard, then you do not need as finely honed an instrument as the point rating system to do a very good job.

Mr. BELL (*Carleton*): Does that not lead to lack of standardization?

Mr. CLOUTIER: No, no, because each group in itself is examined and in relation to the problems presented by the group there is a decision made as to which instrument or technique would best be followed.

Mr. BELL (*Carleton*): I must confess I do not follow you competely on that, Mr. Cloutier; I cannot see, for example, in the clerical and regulatory group why they should use in the Department of Defence Production, a different system from what you might use in the Post Office Department.

Mr. CLOUTIER: Oh, no, that does not apply. In the clerical group the technique used is applied wherever employees classified in that group are found. So that in the clerical group you have mentioned, we used the point rating approach and that technique, that approach is used throughout the service. The

duties of a telephone operator are much easier to define and much more standard than the duties of clerks. There is a whole myriad of things that clerks do.

Mr. BELL (*Carleton*): Perhaps we have misunderstood one another in relation to this. I was speaking of different systems within a group, not within the categories.

Mr. CLOUTIER: Oh, no, within a group there is one approach or one technique only. I am sorry, there is one, the firefighter group. Let me share with you this preview information. In the firefighter group, a firefighter is a firefighter and the duties of a firefighter are all the same but the difference comes in where you have the supervision. In that group we have used a grade description approach for the firefighter and we have used the point rating approach for the various levels of supervision. Again, coming back to the basic principle that we have adopted, in other words, we look at a group and we say for this group which is the classification technique which is most likely to result in the best job being done not for today but for as long as we can foresee. Indeed, our planning is not finished for the other categories and we might continue having variations like this.

Mr. BELL (*Carleton*): One further matter; would you indicate what attempts have been made to actually explain the policy to the ordinary civil servant. You are not unaware, of course, Mr. Cloutier, of the great fears I have of what I think is the most drastic blow to morale during my period of time in public life that has happened to the Civil Service. I wonder whether the public relations of the commission in this have been all that they ought to be and whether there has been a genuine attempt to explain this.

Mr. CLOUTIER: To the extent that there is one employee not fully au fait, then I would say that our public relations have not been as good as they might have been; to the extent that there is one. But, having said this, let me give you a very quick run down as to the various means and various things we have done to try to keep in touch and keep the employees affected informed. To begin with, when the bureau began operations which was the first of October, 1964, and we really did not get going because we did not have a building before some time in November, but as early as December officers of the bureau were blanketing the country to meet groups of employees in every major city to explain not what we were going to do because at that point the planning had not gone that far but just beginning to explain what we hoped to accomplish under this classification revision program. We did this outside of Ottawa and we did this in Ottawa. We blanketed departments with a little pamphlet called general explanations of the classification revision program of which we produced about 1,000,000 copies especially to have this distributed as widely as possible. This was done in October of 1964. That pamphlet was re-issued in the spring of 1965, and at about the same time in March again we dispatched teams of officers across the country to meet departmental people and explain what we were doing and answer questions. This pattern has been followed throughout and from then on I think there were two excursions across the country since last spring.

In addition, last winter, we prepared and distributed to every employee, with his pay cheque, because people might not get or read the pamphlets that are being circulated but as everyone gets close to his pay cheque we thought it might

be a good idea to have an attachment to the pay cheque, an enclosure which an employee would have to make a conscious decision not to read, which again went over the fundamentals of the plan. In addition, to this, we have written I do not know how many circular letters to departments. We have provided them with I do not know how many copies for distribution in the department and finally, the only thing I can think of right now is that throughout, every press release, every circular letter was provided to the staff associations on the understanding that they would be reproduced, and they were, in their different magazines and journals. Having said this, to the extent that there is one individual who does not understand what it means to be red circled and he has been red circled, we have failed.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, it is now a quarter to one. Is it the wish of the committee to have Mr. Cloutier and Mr. Anderson come back again today? Are we through for the present time with these gentlemen? They will be back, I suppose during discussion on the bill.

Mr. BELL (*Carleton*): They will be available?

The JOINT CHAIRMAN (*Mr. Richard*): They will be available.

Mr. KNOWLES: Mr. Chairman, I would like to join with others in thanking them for an excellent half day.

The JOINT CHAIRMAN (*Mr. Richard*): I think we should call a meeting of the steering committee and I will notify them before the next meeting which will be next Thursday, when we begin discussion of the bill, unless you gentlemen want to start on the bill tonight. I think it would be better to discuss our procedure first. So we will call a meeting of the steering committee for this evening?

Mr. KNOWLES: The agreement with the law clerks was we would not have them until we got to that phase of the matter in the bill?

The JOINT CHAIRMAN (*Mr. Richard*): Who is that?

Mr. KNOWLES: The law clerks.

The JOINT CHAIRMAN (*Mr. Richard*): They are not ready yet.

Mr. KNOWLES: They are to come later?

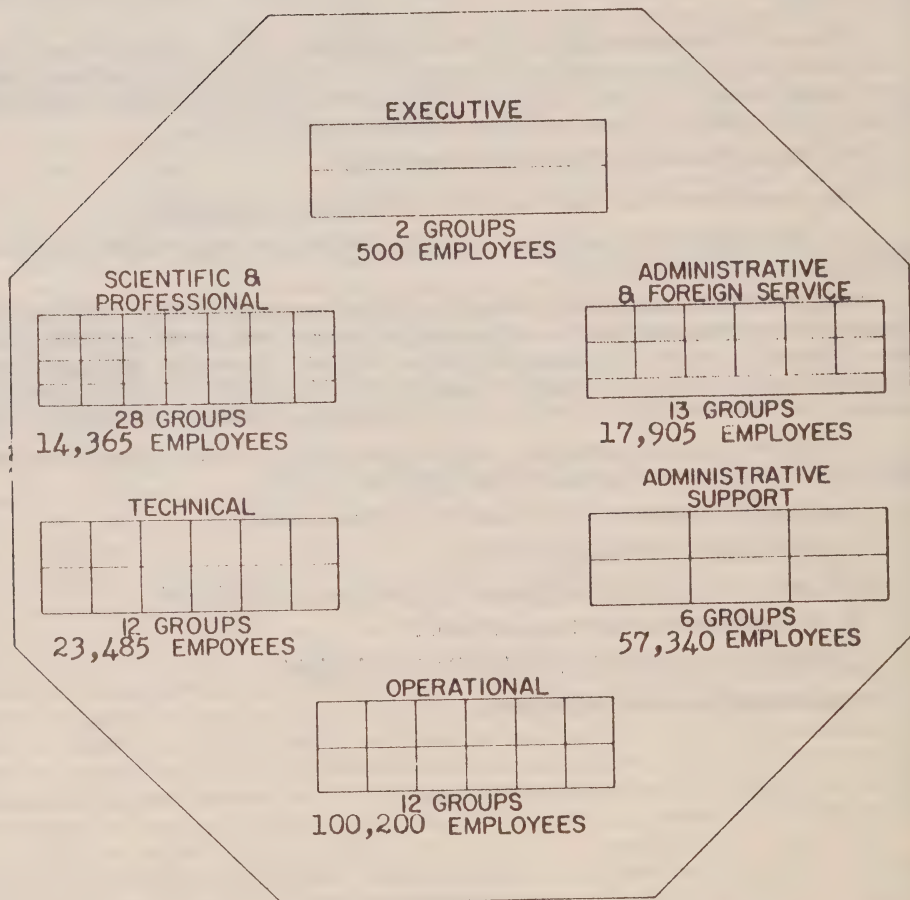
The JOINT CHAIRMAN (*Mr. Richard*): That is right.

The committee stands adjourned.

APPENDIX O

CATEGORIES & GROUPS

(CENTRAL ADMINISTRATION)



TOTAL GROUPS	73
TOTAL EMPLOYEES	213,795

APPENDIX P

APPROXIMATE DISTRIBUTION OF POSITIONS AMONG
PROPOSED OCCUPATIONAL GROUPS

Category and Group	Old Classification			Total
	Civil Service	Prevailing Rate	Others	
EXECUTIVE CATEGORY:				
Implementation Date: July 1, 1967				
General Executive.....	350	0	0	
Senior Executive.....	150	0	0	
	500	0	0	500
SCIENTIFIC AND PROFESSIONAL CATEGORY:				
Implementation Date: July 1, 1967				
Actuarial Science.....	20	0	0	
Agriculture.....	400	0	0	
Architecture.....	170	0	0	
Auditing.....	1,400	0	0	
Biology and Bacteriology.....	180	0	0	
Chemistry.....	275	0	0	
Dentistry.....	85	0	0	
Economics, Sociology and Statistics.....	630	0	0	
Education.....	200	0	2,000	
Engineering and Land Survey.....	1,900	0	0	
Forestry.....	40	0	0	
Historical Research.....	100	0	0	
Home Economics.....	150	0	0	
Law.....	240	0	0	
Library Science.....	165	0	0	
Mathematics.....	50	0	0	
Medicine.....	525	0	0	
Meteorology.....	550	0	0	
Nursing.....	2,000	0	0	
Occupational and Physical Therapy.....	150	0	0	
Pharmacy.....	60	0	0	
Physical Sciences.....	225	0	0	
Psychology.....	25	0	0	
Scientific Regulation.....	375	0	0	
Scientific Research.....	1,600	0	0	
Social Work.....	135	0	15	
University Teacher.....	200	0	0	
Veterinary Science.....	500	0	0	
	12,350	0	2,015	14,365
ADMINISTRATIVE AND FOREIGN CATEGORY:				
Implementation Date: October 1, 1965				
Administrative Services.....	1,590	0	60	
Computer Systems.....	410	0	0	
Financial Administration.....	630	0	10	
Information Services.....	360	0	5	
Organization and Methods.....	290	0	0	
Personnel Administration.....	1,100	0	10	
Programme Administration.....	10,080	0	90	
Purchasing and Supply.....	875	0	10	
Welfare Programmes.....	425	0	265	
Administrative Trainee.....	No figures available			
Implementation Date: July 1, 1967				
Commerce.....	780	0	0	
Foreign Affairs.....	600	0	0	
Translation.....	315	0	0	
	17,455	0	450	17,905

Category and Group	Old Classification			Total
	Civil Service	Prevailing Rate	Others	
ADMINISTRATIVE SUPPORT CATEGORY:				
Implementation Date: October 1, 1965				
Communications.....	1,045	0	0	
Data Processing.....	1,230	0	0	
Clerical and Regulatory.....	37,585	0	50	
Office Equipment Operation.....	490	0	5	
Secretarial, Stenographic, Typing.....	16,160	0	200	
Telephone Operation.....	575	0	0	
	57,085	0	255	57,340
TECHNICAL CATEGORY:				
Implementation Date: July 1, 1967				
Aircraft Operations.....	150	0	0	
Air Traffic Controllers.....	900	0	0	
Engineering and Scientific Support.....	4,200	0	50	
Drafting and Illustration.....	1,300	0	50	
Electronics.....	1,200	0	0	
General Technical.....	9,300	0	350	
Photography.....	80	0	5	
Primary Products Inspection.....	2,200	0	0	
Radio Operations.....	1,200	0	0	
Ships' Officers.....	0	0	1,300	
Ships' Pilots.....	0	50	0	
Technical Inspection.....	1,150	0	0	
	21,680	50	1,755	23,485
OPERATIONAL CATEGORY:				
Implementation Date: October 1, 1966				
General Labour and Trades.....	6,400	15,000	0	
General Services.....	12,300	6,300	0	
Hospital Services.....	4,000	2,000	500	
Printing Operations.....	200	1,000	0	
Ship Repair.....	100	1,700	0	
Ships' Crews.....	0	0	2,800	
Heating, Power and Stationary Plant Operation.....	2,500	100	0	
Firefighters.....	1,200	0	0	
Lightkeepers.....	600	0	0	
Postal Operations.....	30,000	0	0	
Revenue Postal Operations.....	0	0	11,000	
Correctional.....	0	0	2,500	
	57,300	26,100	16,800	100,200
Grand Total.....	166,370	26,150	21,275	213,795

Bureau of Classification Revision
October 31, 1966.

APPENDIX Q

ADMINISTRATIVE SERVICES GROUP
SUMMARY OF PROPOSALS AND ALLOCATIONS

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Un- changed	Number "Red Circles"	Number "Green Circles"
AS 1					
5,850 - 6,962 Points 166 - 240	Administrative Officer 1.....	6,206 - 6,962	47	—	—
	Administrative Officer 2.....	6,804 - 7,497	—	21	—
	Administrative Officer 3.....	7,340 - 8,096	—	6	—
	Administrative Officer 4.....	7,696 - 8,777	—	2	—
	Administrative Officer 5.....	8,363 - 9,508	—	1	—
	Technical Officer 2.....	5,054 - 5,803	—	—	4
	Technical Officer 3.....	6,206 - 6,962	19	—	—
	Technical Officer 11.....	11,554 -13,038	—	1	—
	Clerk 4.....	4,586 - 5,054	—	—	3
	Principal Clerk.....	5,242 - 5,803	—	—	3
	Supervising Clerk.....	5,741 - 6,302	—	—	5
	Head Clerk.....	6,143 - 6,710	—	—	1
	Personnel Officer 2.....	6,395 - 6,962	1	—	—
	Supervisor 4, Office Services.....	6,143 - 6,710	—	—	3
	Departmental Accountant 3.....	5,741 - 6,302	—	—	1
	Departmental Accountant 4.....	6,395 - 6,962	3	—	—
	Postal Officer 4.....	5,741 - 6,302	—	—	27
	Technician 1.....	4,260 - 5,520	—	—	1
	5,850 - 6,962 Points 166 - 240	Townsite Officer 1.....	5,054 - 5,803	—	—
Townsite Officer 2.....		6,206 - 6,962	4	—	—
			74	31	52
Total Positions in Level.....				157	
AS 2					
6,597 - 7,497 Points 241 - 320	Administrative Officer 1.....	6,206 - 6,962	—	—	59
	Administrative Officer 2.....	6,804 - 7,497	100	—	—
	Administrative Officer 3.....	7,340 - 8,096	—	46	—
	Administrative Officer 4.....	7,696 - 8,777	—	17	—
	Administrative Officer 5.....	8,363 - 9,508	—	2	—
	Administrative Officer 6.....	9,127 -10,653	—	2	—
	Technical Officer 2.....	5,054 - 5,803	—	—	4
	Technical Officer 3.....	6,206 - 6,962	—	—	18
	Technical Officer 4.....	6,804 - 7,497	83	—	—
	Technical Officer 5.....	7,340 - 8,096	—	2	—
	Technical Officer 6.....	7,886 - 8,968	—	2	—
	Technical Officer 7.....	8,681 - 9,953	—	1	—
	Clerical and Regulatory 4.....	4,598 - 5,054	—	—	1
	Clerical and Regulatory 5.....	5,281 - 5,803	—	—	2
	Principal Clerk.....	5,242 - 5,803	—	—	6
	Supervising Clerk.....	5,741 - 6,302	—	—	4
	Head Clerk.....	6,143 - 6,710	—	—	7
	Personnel Officer 2.....	6,395 - 6,962	—	—	1
	Personnel Officer 3.....	7,340 - 8,096	—	2	—
	Staff Training Officer 3.....	6,804 - 7,497	1	—	—
	Postal Officer 5.....	6,395 - 6,962	—	—	1
	Inspector 2, Customs & Excise.....	6,804 - 7,497	20	—	—
	Technician 3.....	5,855 - 6,395	—	—	1
	Retail Inspection Officer 3.....	6,143 - 6,710	—	—	1
	Clerk of Process, Supreme Court....	6,206 - 6,962	—	—	1
	Departmental Accountant 5.....	6,804 - 7,497	1	—	—
	Supervisor 5, Office Services.....	6,804 - 7,497	2	—	—
Land Surveyor 1.....	7,088 - 8,096	—	1	—	
			207	75	106
Total Positions in Level.....				388	

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Un- changed	Number "Red Circles"	Number "Green Circles"
AS 3					
7,124 - 8,096 Points 321 - 400	Administrative Officer 1.....	6,206 - 6,962	—	—	10
	Administrative Officer 2.....	6,804 - 7,497	—	—	44
	Administrative Officer 3.....	7,340 - 8,096	125	—	—
	Administrative Officer 4.....	7,696 - 8,777	—	45	—
	Administrative Officer 5.....	8,363 - 9,508	—	10	—
	Administrative Officer 6.....	9,127 - 10,653	—	1	—
	Technical Officer 3.....	6,206 - 6,962	—	—	4
	Technical Officer 4.....	6,804 - 7,497	—	—	19
	Technical Officer 5.....	7,340 - 8,096	21	—	—
	Technical Officer 6.....	7,886 - 8,968	—	1	—
	Technical Officer 7.....	8,681 - 9,953	—	1	—
	Chief Customs & Excise Clerk 7.....	7,340 - 8,096	8	—	—
	Chief Customs & Excise Clerk 8.....	7,886 - 8,968	—	2	—
	Departmental Accountant 2.....	5,242 - 5,803	—	—	4
	Departmental Accountant 3.....	5,741 - 6,302	—	—	10
	Departmental Accountant 5.....	6,804 - 7,496	—	—	1
	Supervisor 4, Office Services.....	6,143 - 6,710	—	—	2
	Supervisor 5, Office Services.....	6,804 - 7,497	—	—	3
	Townsite Officer 3.....	6,804 - 7,497	—	—	7
	Townsite Officer 4.....	7,340 - 8,906	3	—	—
	Civil Service Commission Officer 3.....	8,014 - 9,158	—	1	—
	Patent Examiner 2.....	6,660 - 7,800	—	—	1
	Personnel Officer 3.....	7,340 - 8,096	1	—	—
	Clerk 4.....	4,586 - 5,054	—	—	1
	Head Clerk.....	6,143 - 6,710	—	—	1
	Clerk of Process, Exchequer Court.....	6,426 - 7,245	—	—	1
	Inspector, UIC.....	7,340 - 8,096	8	—	—
	Surveyor 7, Customs & Excise.....	7,340 - 8,096	1	—	—
	Surveyor 8, Customs & Excise.....	7,886 - 8,968	—	1	—
	Secretary, UIC.....	8,681 - 9,953	—	1	—
	Solicitor 2.....	6,489 - 7,686	—	—	1
	Immigration Officer 9.....	7,340 - 8,096	1	—	—
			168	63	109
Total Positions in Level.....				340	

AS 4

7,891 - 8,968 Points 401 - 500	Administrative Officer 1.....	6,206 - 6,962	—	—	1
	Administrative Officer 2.....	6,804 - 7,497	—	—	3
	Administrative Officer 3.....	7,340 - 8,096	—	—	35
	Administrative Officer 4.....	7,696 - 8,777	—	—	89
	Administrative Officer 5.....	8,363 - 9,508	—	38	—
	Administrative Officer 6.....	9,127 - 10,653	—	12	—
	Administrative Officer 7.....	11,554 - 13,033	—	1	—
	Technical Officer 3.....	6,206 - 6,962	—	—	1
	Technical Officer 4.....	6,804 - 7,497	—	—	12
	Technical Officer 5.....	7,340 - 8,096	—	—	28
	Technical Officer 6.....	7,886 - 8,968	24	—	—
	Technical Officer 7.....	8,681 - 9,953	—	5	—
	Technical Officer 8.....	9,127 - 10,653	—	2	—
	Technical Officer 9.....	9,688 - 11,342	—	1	—
	Immigration Officer 9.....	7,340 - 8,096	—	—	8
	Immigration Officer 10.....	7,886 - 8,968	2	—	—
	Civil Service Commission Officer 5.....	10,070 - 11,342	—	1	—
	Geographer 4.....	9,688 - 11,342	—	1	—
	Inspector 2, Customs & Excise.....	6,804 - 7,497	—	—	12
	Inspector 3, Customs & Excise.....	9,127 - 10,653	—	2	—
	Treasury Officer 1.....	6,804 - 7,497	—	—	1
	Chief Customs & Excise Clerk 8.....	7,886 - 8,968	3	—	—
	Personnel Officer 5.....	8,363 - 9,508	—	1	—
	Public Information Officer 3.....	7,409 - 8,777	—	—	1

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Un- changed	Number "Red Circles"	Number "Green Circles"
AS 4 continued					
7,891 - 8,968	Indian Affairs Officer 6.....	8,363 - 9,508	—	1	—
Points	Indian Affairs Officer 7.....	9,127 -10,653	—	4	—
401 - 500	Indian Affairs Officer 8.....	11,024 -12,296	—	1	—
	Regional Supervisor 1, Indian Agencies.....	8,363 - 9,508	—	1	—
	Postal Officer 7.....	7,340 - 8,096	—	—	1
	Archivist 3.....	8,014 - 9,158	—	1	—
	Personnel Administrator 4.....	9,031 -10,176	—	1	—
	Associate Director, PRFA.....	-12,636	—	1	—
			29	74	192
Total Positions in Level.....				295	

AS 5

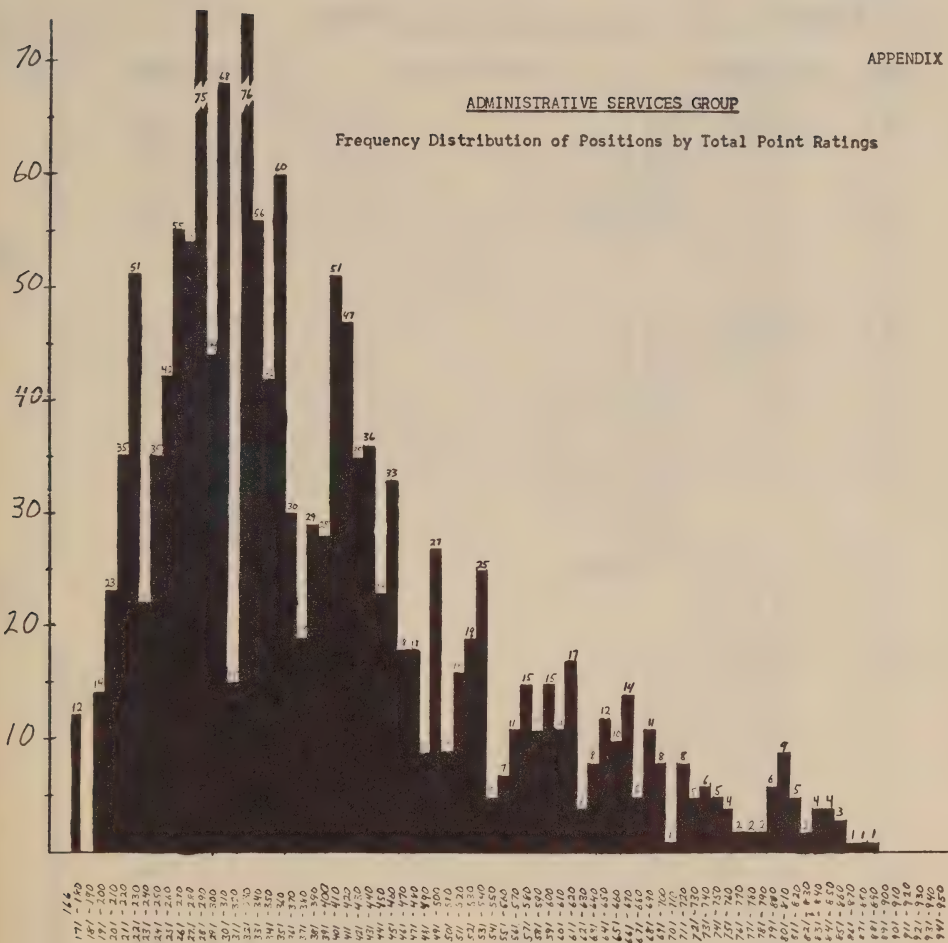
9,375 -10,653	Administrative Officer 3.....	7,340 - 8,096	—	—	1
Points	Administrative Officer 4.....	7,696 - 8,777	—	—	11
501 - 600	Administrative Officer 5.....	8,363 - 9,508	—	—	2
	Administrative Officer 6.....	9,127 -10,653	23	—	—
	Administrative Officer 7.....	11,554 -13,038	—	13	—
	Administrative Officer 8.....	13,038 -14,628	—	3	—
	Technical Officer 6.....	7,886 - 8,968	—	—	5
	Technical Officer 7.....	8,681 - 9,953	—	—	10
	Technical Officer 8.....	9,127 -10,653	8	—	—
	Personnel Administrator 5.....	10,070 -11,342	—	2	—
	Personnel Officer 4.....	7,696 - 8,777	—	—	1
	Farm Credit Advisor 4.....	8,363 - 9,508	—	—	6
	Public Information Officer 5.....	9,190 -10,717	—	1	—
	Architect 5.....	10,160 -11,360	—	1	—
	Industrial Relations Officer 5.....	8,363 - 9,058	—	—	1
	Computer Systems Programmer 3.....	6,269 - 7,529	—	—	1
	Development Officer 6.....	10,070 -11,342	—	1	—
	Chief Customs and Excise Clerk 9	8,363 - 9,508	—	—	2
	Indian Affairs Officer 6	8,363 - 9,508	—	—	2
	Civil Service Commission Officer 5	10,070 -11,342	—	1	—
	Inspector 3, Customs and Excise	9,127 -10,653	7	—	—
	Management Analyst 4	9,031 -10,176	—	—	1
			38	22	73
Total Positions in Level.....				133	

AS 6

11,088 -12,600	Administrative Officer 3	7,340 - 8,096	—	—	4
Points	Administrative Officer 4	7,696 - 8,777	—	—	6
601 - 700	Administrative Officer 5	8,363 - 9,508	—	—	6
	Administrative Officer 6	9,127 -10,653	—	—	21
	Administrative Officer 7	11,554 -13,038	—	22	—
	Administrative Officer 8	13,038 -14,628	—	8	—
	Technical Officer 5	7,340 - 8,096	—	—	1
	Technical Officer 7	8,681 - 9,953	—	—	1
	Technical Officer 8	9,127 -10,653	—	—	11
	Technical Officer 9	9,688 -11,342	—	—	6
	Technical Officer 10	10,494 -12,296	—	—	4
	Technical Officer 11	11,554 -13,038	—	1	—
	Management Analyst 5	10,070 -11,342	—	—	1
	Asst. Secretary to Governor General	9,127 -10,653	—	—	1
	Engineer 5	10,160 -11,360	—	—	1
	Chief Customs and Excise Clerk 10	9,127 -10,653	—	—	2
	Civil Service Commission Officer 7	14,946 -16,006	—	1	—

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Un- changed	Number "Red Circles"	Number "Green Circles"
AS 6 continued					
11,088 -12,600	Chief Inspector UIC	11,554 -13,038	—	1	—
Points	Welfare Administrator 5	11,554 -13,038	—	1	—
601 - 700	Assistant Director, Inspection Branch, Customs and Excise	9,688 -11,342	—	—	1
			0	34	66
Total Positions in Level.....				100	
AS 7					
12,873 -14,628	Administrative Officer 6	9,127 -10,653	—	—	1
Points	Administrative Officer 7	11,554 -13,038	—	—	13
701 - 800	Administrative Officer 8	13,038 -14,628	14	—	—
	Technical Officer 8	9,127 -10,653	—	—	1
	Technical Officer 10	10,494 -12,296	—	—	2
	Technical Officer 11	11,554 -13,038	—	—	4
	Defence Production Officer 7	11,554 -13,038	—	—	1
	Finance Officer 6	14,946 -16,006	—	1	—
	Secretary, Transport	14,946 -16,006	—	1	—
	Superintendent, National Defence	14,946 -16,006	—	2	—
	New Positions	—	1	—	—
			15	4	22
Total Positions in Level.....				41	
AS 8					
14,086 -16,006	Administrative Officer 7	11,554 -13,038	—	—	1
Points	Administrative Officer 8	13,038 -14,628	—	—	13
801 - 900	Assistant Director Postal Service	14,946 -16,006	2	—	—
	Director, Inspection Branch, Customs and Excise	13,038 -14,628	—	—	1
	Director, Management, Audit Service, Post Office	14,946 -16,006	1	—	—
	District Administrator 5, DVA	10,494 -12,296	—	—	1
	Superintendent, National Defence	14,946 -16,006	1	—	—
	Treasury Officer 5	13,038 -14,628	—	—	1
	Chief, Special Programmes	14,946 -16,006	1	—	—
	Defence Production Officer 9	14,946 -16,006	1	—	—
	Director, Research Branch, Administration, Agriculture	14,946 -16,006	1	—	—
	Chief, Lands Branch, Transport	14,946 -16,006	1	—	—
	Chief of Division, C and I	14,946 -16,006	1	—	—
	Chief of Division, Public Works	14,946 -16,006	1	—	—
	Director, Administration, Board of Grain Commissioners	14,946 -16,006	1	—	—
	Director 5, Taxation	14,946 -16,006	1	—	—
			12	0	17
Total Positions in Level.....				29	
AS 9					
15,860 -19,100	No Positions	—	—	—	—
Performance Range					
Points					
901 - 1000					
Group Totals.....			543	303	637
				1,483	
Per cent of positions.....			36.6	20.4	43.0

APPENDIX ..



APPENDIX Q (Continued)

THE CLERICAL AND REGULATORY GROUP

COMPARISON OF EXISTING AND PROPOSED CLASSIFICATION AND PAY STRUCTURES

Proposed		Existing ⁽¹⁾		Number of Positions
Level	Salary Range	Class and Grade	Salary Range	
CR 1	Proposal 2,490-3,155	Clerk 1.....	2,558-3,026	4,068
		Clerk 2.....	3,214-3,682	1,090
		Clerk 3.....	4,056-4,524	64
		Typist 2.....	3,058-3,432	20
		Clerical Assistant.....	2,440	17
		Signal Agent 1.....	2,777-2,902	14
		Miscellaneous.....		80
				5,353
CR 2	Proposal 3,359-3,692	Clerk 1.....	2,558-3,026	682
		Clerk 2.....	3,214-3,682	3,952
		Clerk 3.....	4,056-4,524	1,155
		Clerk 4.....	4,586-5,803	96
		Principal Clerk.....	5,242-5,803	14
		Clerical Assistant.....	2,440	24
		Cust. Exc. Off. 1.....	3,370-4,120	25
		Cust. Exc. Off. 2.....	4,615-5,215	97
		Stenographer 1.....	2,590-3,338	12
		Stenographer 2.....	3,401-3,720	50
		Stenographer 3.....	3,900-4,212	12
		Typist 1.....	2,558-3,026	15
		Typist 2.....	3,058-3,432	42
		Miscellaneous.....		55
				6,231
CR 3	Proposal 3,930-4,320	Clerk 1.....	2,558-3,026	283
		Clerk 2.....	3,214-3,682	1,163
		Clerk 3.....	4,056-4,524	4,475
		Clerk 4.....	4,586-5,803	1,302
		Principal Clerk.....	5,242-5,803	79
		Stenographer 2.....	3,401-3,720	17
		Stenographer 3.....	3,900-4,212	16
		Stenographer 3, Secretary.....	4,056-4,524	28
		Air Traffic Cont. Asst. 1.....	3,744-4,524	89
		Air Traffic Cont. Asst. 2.....	5,054-5,803	60
		Trans. Oper. Clerk 1.....	3,463-3,931	23
		Trans. Oper. Clerk 2.....	4,056-4,524	67
		Departmental Accountant 1.....	4,742-5,304	14
		Departmental Accountant 2.....	5,242-5,803	12
		Computing Clerk.....	4,930-5,491	47
		Clerk 2, Engineering.....	4,087-4,711	24
		Claims Officer 2.....	4,368-4,774	134
		Technician 1.....	4,260-5,520	11
		Miscellaneous.....		66
				7,910

THE CLERICAL AND REGULATORY GROUP (Continued)

COMPARISON OF EXISTING AND PROPOSED CLASSIFICATION AND PAY STRUCTURES (Continued)

Proposed		Existing ⁽¹⁾		Number of Positions
Level	Salary Range	Class and Grade	Salary Range	
CR 4	Proposal 4,598-5,054	Clerk 2.....	3,214-3,682	62
		Clerk 3.....	4,056-4,524	1,329
		Clerk 4.....	4,586-5,054	2,359
		Principal Clerk.....	5,242-5,803	607
		Supervising Clerk.....	5,741-6,302	29
		Head Clerk.....	6,084-6,710	13
		Cust. Exc. Officer 2.....	4,615-5,215	1,384
		Cust. Exc. Officer 3.....	5,105-5,645	14
		Technical Officer 2.....	5,054-5,803	34
		Departmental Accountant 1.....	4,742-5,304	71
		Departmental Accountant 2.....	5,242-5,803	58
		Departmental Accountant 3.....	5,741-6,302	23
		Medical Records Librarian 2.....	4,493-4,961	18
		Stenographer 3, Secretary.....	4,056-4,524	27
		Cust. Exc. Supt. 1.....	5,242-5,803	23
		Cust. Exc. Supt. 2.....	5,741-6,302	13
		Claims Officer 2.....	4,368-4,774	887
		Claims Officer 3.....	4,742-5,304	255
		Supv. 1, Off. Serv.....	4,742-5,304	23
		Cust. Exc. Supv. 2.....	5,545-6,085	20
		Cust. Exc. Acct. Clk. 7.....	5,928-6,302	11
		Cust. Exc. Acct. Clk. 8.....	6,395-6,962	17
		Computing Clerk.....	4,930-5,491	245
		Miscellaneous.....		118
				7,640
CR 5	Proposal 5,382-5,913	Clerk 3.....	4,056-4,524	28
		Clerk 4.....	4,586-5,803	285
		Principal Clerk.....	5,242-5,803	641
		Supervising Clerk.....	5,741-6,302	183
		Head Clerk.....	6,084-6,710	27
		Administrative Officer 1.....	6,146-6,962	15
		Cust. Exc. Officer 3.....	5,105-5,645	1,454
		Cust. Exc. Supv. 1.....	4,742-5,304	16
		Cust. Exc. Supv. 2.....	5,545-6,085	60
		Cust. Exc. Supv. 3.....	5,741-6,302	34
		Cust. Exc. Supt. 1.....	5,242-5,803	15
		Cust. Exc. Supt. 2.....	5,741-6,302	18
		Princ. Cust. Exc. Checking Clk.....	5,741-6,302	53
		Claims Officer 3.....	4,742-5,304	38
		Departmental Accountant 2.....	5,242-5,803	12
		Departmental Accountant 3.....	5,741-6,302	23
		Defence Prod. Officer 2.....	5,554-6,302	117
		Defence Prod. Officer 3.....	6,146-6,962	19
		Customs Appraiser 1.....	5,242-5,803	11
		Computing Clerk.....	4,930-5,491	260
		Purchasing Agent 2.....	5,554-6,302	12
		Supv. 2, Off. Serv.....	5,242-5,803	25
		Technical Officer 2.....	5,054-5,803	33
		Miscellaneous.....		62
				3,441

THE CLERICAL AND REGULATORY GROUP (Continued)

COMPARISON OF EXISTING AND PROPOSED CLASSIFICATION AND PAY STRUCTURES (Concluded)

Proposed		Existing ⁽¹⁾		
Level	Salary Range	Class and Grade	Salary Range	Number of Positions
CR 6	Proposal 6,356-6,986	Clerk 4.....	4,586-5,054	21
		Principal Clerk.....	5,242-5,803	64
		Supervising Clerk.....	5,741-6,302	107
		Head Clerk.....	6,084-6,710	56
		Administrative Officer 2.....	6,804-7,497	16
		Cust. Exc. Supv. 2.....	5,545-6,085	72
		Cust. Exc. Supv. 3.....	5,741-6,302	63
		Cust. Exc. Supt. 1.....	5,242-5,803	12
		Cust. Exc. Supt. 2.....	5,741-6,302	15
		Customs Appraiser 2.....	5,741-6,302	393
		Customs Appraiser 3.....	6,395-6,962	21
		Customs Appraiser 4.....	6,804-7,497	36
		Miscellaneous.....		54
				930
CR 7	Proposal 7,438-8,173	Head Clerk.....	6,084-6,710	18
		Miscellaneous.....		10
				28

⁽¹⁾ Salary ranges in effect following interim revision authorized in December 1965.

THE CLERICAL AND REGULATORY GROUP (Continued)
IMMEDIATE COST OF CONVERSION AND NUMBER OF EMPLOYEES RED-CIRCLED

Level	Class and Grade	Number of Positions	Employees Red-Circled	Immediate Cost
				\$
CR 1	Clerk 1.....	4,068	—	122,040
	Clerk 2.....	1,090	1,090	—
	Clerk 3.....	64	64	—
	Typist 2.....	20	20	—
	Clerical Assistant.....	17	—	250
	Signal Agent 1.....	14	—	1,176
	Miscellaneous.....	80	61	644
		5,353	1,235	124,710
CR 2	Clerk 1.....	682	—	402,380
	Clerk 2.....	3,952	—	268,736
	Clerk 3.....	1,155	1,155	—
	Clerk 4.....	96	96	—
	Principal Clerk.....	14	14	—
	Clerical Assistant.....	24	—	22,056
	Cust. Exc. Officer 1.....	25	25	—
	Cust. Exc. Officer 2.....	97	97	—
	Stenographer 1.....	12	—	4,092
	Stenographer 2.....	50	50	—
	Stenographer 3.....	12	12	—
	Typist 1.....	15	—	8,415
	Typist 2.....	42	—	4,788
	Miscellaneous.....	55	47	2,789
		6,231	1,496	713,256
CR 3	Clerk 1.....	283	—	328,563
	Clerk 2.....	1,163	—	524,513
	Clerk 3.....	4,475	4,475	—
	Clerk 4.....	1,302	1,302	—
	Principal Clerk.....	79	79	—
	Stenographer 2.....	17	—	5,542
	Stenographer 3.....	16	—	880
	Stenographer, 3 Secretary.....	28	28	—
	Air Traffic Control Asst. 1.....	89	89	—
	Air Traffic Control Asst. 2.....	60	60	—
	Trans. Oper. Clk. 1.....	23	—	6,601
	Trans. Oper. Clk. 2.....	67	67	—
	Departmental Accountant 1.....	14	14	—
	Departmental Accountant 2.....	12	12	—
	Computing Clerk.....	47	47	—
	Clerk 2, Engineering.....	24	24	—
	Claims Officer 2.....	134	134	—
	Technician 1.....	11	11	—
	Miscellaneous.....	66	45	16,074
		7,910	6,387	882,173
CR 4	Clerk 2.....	62	—	69,378
	Clerk 3.....	1,329	—	305,670
	Clerk 4.....	2,359	—	11,795
	Principal Clerk.....	607	607	—
	Supervising Clerk.....	29	29	—
	Head Clerk.....	13	13	—
	Cust. Exc. Off. 2.....	1,384	1,384	—
	Cust. Exc. Off. 3.....	14	14	—
	Technical Officer 2.....	34	34	—
	Departmental Accountant 1.....	71	71	—
	Departmental Accountant 2.....	58	58	—
	Departmental Accountant 3.....	23	23	—
	Medical Records Librarian 2.....	18	—	1,746
	Stenographer 3, Secretary.....	27	—	7,209
	Cust. Exc. Supt. 1.....	23	23	—
	Cust. Exc. Supt. 2.....	13	13	—
	Claims Officer 2.....	887	—	100,231

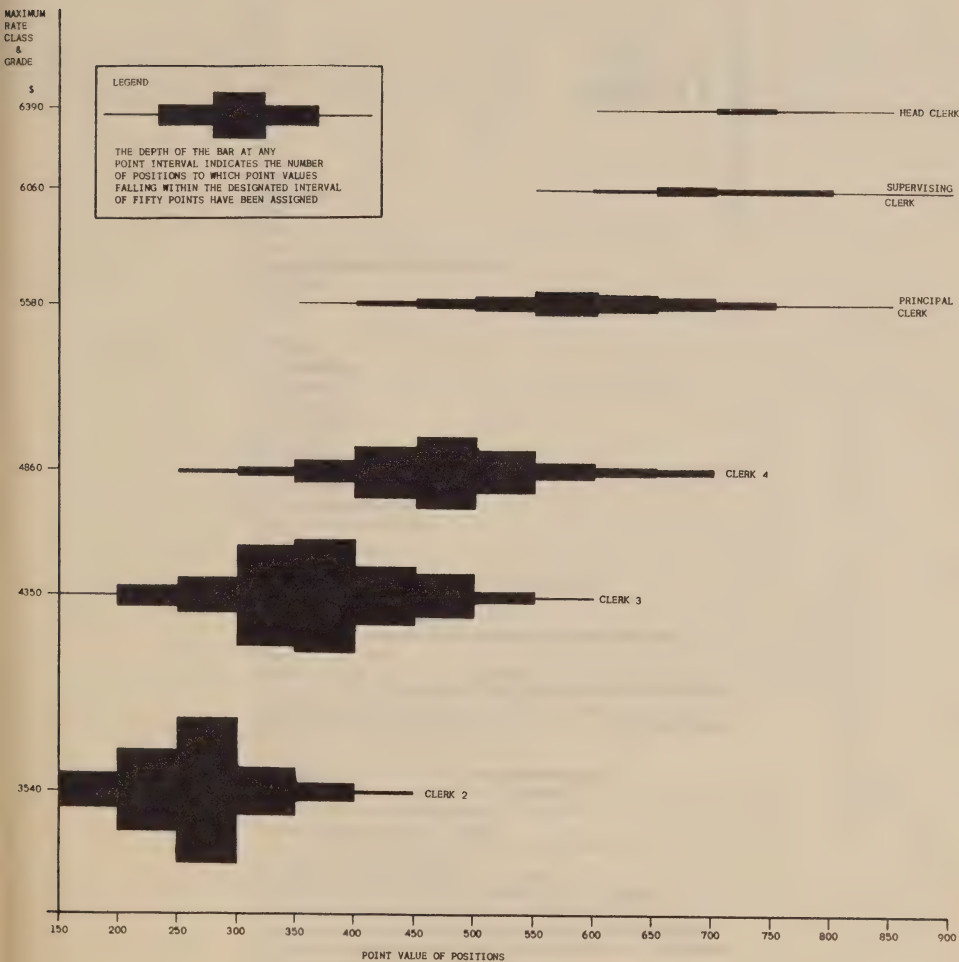
THE CLERICAL AND REGULATORY GROUP—(Concluded)

IMMEDIATE COST OF CONVERSION AND NUMBER OF EMPLOYEES RED-CIRCLED—(Concluded)

Level	Class and Grade	Number of Positions	Employees Red-Circled	Immediate Cost
				\$
CR 4 Continued				
	Claims Officer 3.....	255	255	—
	Supv. 1, Office Services.....	23	23	—
	Cust. Exc. Supv. 2.....	20	20	—
	Cust. Exc. Acct. Clk. 7.....	11	11	—
	Cust. Exc. Acct. Clk. 8.....	17	17	—
	Computing Clerk.....	245	245	—
	Miscellaneous.....	118	72	28,942
		7,640	2,912	524,971
CR 5				
	Clerk 3.....	28	—	28,392
	Clerk 4.....	285	—	134,520
	Principal Clerk.....	641	—	78,843
	Supervising Clerk.....	183	183	—
	Head Clerk.....	27	27	—
	Administrative Officer 1.....	15	15	—
	Cust. Exc. Officer 3.....	1,454	—	141,038
	Cust. Exc. Supv. 1.....	16	—	1,968
	Cust. Exc. Supv. 2.....	60	60	—
	Cust. Exc. Supv. 3.....	34	34	—
	Cust. Exc. Supt. 1.....	15	—	1,800
	Cust. Exc. Supt. 2.....	18	18	—
	Princ. Cust. Exc. Checking Clk.....	53	53	—
	Claims Officer 3.....	38	—	7,106
	Departmental Accountant 2.....	12	—	1,476
	Departmental Accountant 3.....	23	23	—
	Defence Production Off. 2.....	117	117	—
	Defence Production Off. 3.....	19	19	—
	Customs Appraiser 1.....	11	—	1,309
	Computing Clerk.....	260	—	48,100
	Purchasing Agent 2.....	12	12	—
	Supv. 2, Office Services.....	25	—	3,275
	Technical Officer 2.....	33	—	4,983
	Miscellaneous.....	62	38	9,202
		3,441	599	462,012
CR 6				
	Clerk 4.....	21	—	30,366
	Principal Clerk.....	64	—	45,952
	Supervising Clerk.....	107	—	22,898
	Head Clerk.....	56	—	4,312
	Administrative Officer 2.....	16	16	—
	Cust. Exc. Supv. 2.....	72	—	23,544
	Cust. Exc. Supv. 3.....	63	—	9,072
	Cust. Exc. Supt. 1.....	12	—	7,620
	Cust. Exc. Supt. 2.....	15	15	2,595
	Customs Appraiser 2.....	393	—	45,195
	Customs Appraiser 3.....	21	—	1,323
	Customs Appraiser 4.....	36	36	—
	Miscellaneous.....	54	3	26,349
		930	55	219,226
CR 7				
	Head Clerk.....	18	—	16,344
	Miscellaneous.....	10	—	11,210
		28	nil	77,554

APPENDIX D

CLERICAL AND REGULATORY GROUP
DISTRIBUTION OF POSITIONS IN SELECTED
CLASSES AND GRADES BY POINT VALUE



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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 16

THURSDAY, NOVEMBER 3, 1966

Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

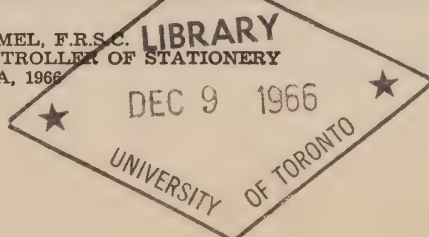
BILL C-182

An Act to amend the Financial Administration Act.

WITNESS:

Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard
and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Ricard,
Mr. Rochon,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(*Quorum 10*)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, November 3, 1966.

(27)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Deschatelets, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Crossman, Émard, Hymmen, Knowles, Lachance, Lewis, McCleave, Richard, Rochon, Tardif, Walker (14).

Also present: Hon. Mr. Pennell.

In attendance: Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

Also in attendance: Mr. J. J. Carson, Chairman, Miss Ruth E. Addison, Commissioner, Mr. J. Swanson, Civil Service Commission; Mr. W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The spokesman for the Civil Service Commission stated that the Commission was in agreement with certain representations made with respect to Bill C-181 and was having the Justice Department check the wording of amendments to clauses 5, 6, 8, 10, 16, 21, 26, 27, 28, 31 and 45.

The Committee questioned the Civil Service Commission representative on various clauses of Bill C-181 during the clause by clause review of the bill which resulted in the following:

Clause 1, stand; Clause 2, carried; Clause 3, carried; Clause 4, carried; Paragraph 5(a), stand; Paragraphs 5(b), 5(c), 5(d), 5(e), carried; Clause 6, stand; Clause 7, stand (see motion below); Clause 8, stand; Clause 9, carried; Clause 10, stand; Clause 11, carried; Clause 12, carried as amended (see motion below); Clause 13, carried; Clause 14, stand; Clause 15, carried; Sub-Clause 16(1), carried; Sub-clause 16(2), stand; Sub-Clause 16(3), carried; Clause 17, carried; Clause 18, carried; Clause 19, carried; Clause 20, carried.

Moved by Mr. Bell, seconded by Mr. Chatterton, That in line 24, Clause 7 the comma after the word "Commission" be struck out and the word "or" substituted therefor, and in line 25 the words "or an officer of the Commission" be struck out.

By unanimous agreement, the motion and Clause 7 were allowed to stand.

It was moved by Mr. Knowles, seconded by the Honourable Senator Fergusson and reserved.

That Sub-Clause 12(2) be amended by inserting the word "sex" and a comma thereafter in line 24 after the word "of".

At 1.45 p.m., a discussion of Clause 21 continuing, the meeting was adjourned to 8.00 p.m. this day.

EVENING SITTING

(28)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.10 p.m. this day, the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (Carleton), Chatterton, Chatwood, Émard, Fairweather, Hymmen, Knowles, Lachance, Richard, Walker (10).

In attendance: Same as at morning sitting.

The Committee resumed consideration of Bill C-181, clause by clause, as follows:

Clause 21, stand; Clause 22, stand; Clause 23, carried; Clause 24, carried; Clause 25, carried; Clause 26, stand; Clause 27, stand; Clause 28, stand; Clause 29, carried; Clause 30, carried; Clause 31, stand; Clause 32, stand; Clause 33, carried on division; Paragraph 34(1)(a), carried; Paragraph 34(1)(b), carried; Paragraph 34(1)(c), stand; Sub-Clause 34(2), carried; Sub-Clause 35(1), stand; Sub-Clause 35(2), carried; Clause 36, carried; Clause 37, carried; Clause 38, carried; Clause 39, stand; Clause 40, carried; Clause 41, carried; Clause 42, carried; Clause 43, carried; Clause 44, carried; Clause 45, stand; Clause 46, carried; Clause 47, carried; Clause 48, carried.

At 9.55 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 3, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we now have a quorum. This morning we are going to study Bill No. C-181, an act respecting employment in the public service of Canada. We have with us this morning Mr. Sylvain Cloutier, one of the commissioners of the Civil Service Commission who represents the Commission. The chairman Mr. Carson, and commissioner Miss Addison are in the audience. Do you have anything to say before we proceed, Mr. Cloutier.

Mr. SYLVAIN CLOUTIER (*Commissioner, Civil Service Commission*): Mr. Chairman, I have a small opening statement which states why I am here. I would like to say that my colleagues, Miss Addison and Mr. Carson considered the manner in which we as commissioners might be of greater service to the Joint Committee in its consideration of the bill. We concluded that for the sake of continuity, and, perhaps, continuity from many aspects, it would probably make sense if only one of us appeared as a witness at this stage—the clause by clause stage—rather than all three of us together or one after the other. We also agreed that if this arrangement works out that I would act as spokesman for the Commission.

Mr. Chairman, we were heartened that this approach seemed to find favour with you and Senator Bourget and that it also meets with the approval of the members of the Committee. I should be glad to be your main witness, provided that on occasion you will let me refer to or seek advice from officers of the Commission if this would help me to give you more complete or more accurate answers.

In this opening statement I do not intend to refer to the principles underlying Bill No. C-181. This was done with great clarity and conviction by Mr. Carson a few days ago and I could not improve upon what he said.

I would like to outline very briefly to the members of the Committee the consultations that we have had on Bill No. C-181 with the staff associations. This process of consultation began last spring, even before the bill was tabled in the House of Commons but, of course, I hasten to add that at that stage we were dealing in generalities and principles and objectives. Of course, propriety prevented us from discussing with the staff associations the detailed provisions of this bill. But as soon as the bill was tabled, or within days of the tabling in the house, we again met with the staff associations and at that time we heard pretty much the same comments and suggestions that the associations placed before this Committee some weeks ago.

My point, Mr. Chairman, is that my colleagues and I have had quite some time to review and examine the comments and suggestions and proposals made by the associations. As a result of this examination we have come to agree with many of their suggestions.

Mr. Chairman, there are about 12 clauses in this bill about which we would welcome the opportunity to exchange views with the members of the Committee on the suggestions of the staff associations and the manner in which these suggestions might best be incorporated in the bill. If it pleases the members of the Committee, I could identify these issues as we come to the relevant clauses. Any resulting amendment would be, in my opinion, quite straightforward and I am sure that the draft prepared by officers of the Department of Justice could be made available within 24 hours following discussion. Mr. Chairman, I thank you.

Mr. KNOWLES: Mr. Chairman, before we start, could Mr. Cloutier identify the numbers of the clauses.

Mr. CLOUTIER: I was going to say the same thing.

Mr. KNOWLES: Rather than waiting until we get to them clause by clause.

Mr. CLOUTIER: The clauses are 5, 6, 8, 10, 16, 21, 26, 27, 28, 30, 31. We have already submitted a memorandum to the Committee covering the matters with respect to clause 32. The last clause is clause 45.

Mr. LEWIS: We are not dealing with 32.

Mr. CLOUTIER: No, 45.

Mr. LEWIS: Forty-five after 32, is that correct?

Mr. CLOUTIER: Well, we have no recommendations on 32.

Mr. LEWIS: I wondered whether you had another number in between.

Mr. CLOUTIER: No, sir.

Mr. KNOWLES: Mr. Chairman, I would like to point out that we are not dealing with clause 32 at this point. I think it is also understood that the question which we are to discuss with the law clerks of the two houses will be discussed later—the question of bargaining on the hill.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 2.

On clause 2—*Interpretation*.

Mr. BELL (*Carleton*): May I ask Mr. Cloutier a question with respect to three definitions which were in the old Civil Service Act which have been dropped from this act. An attempt was made in the old act to define incompetence and misconduct, and I think that attempt has been departed from and there is no definition anywhere in the act of those two words. In addition, the word "classify" was defined in the old act and there is no definition of classify or classification in the new act. I wonder if Mr. Cloutier could comment on those three definitions.

Mr. CLOUTIER: Under the proposed re-arrangement of authority between the Civil Service Commission and the Treasury Board in the role of employer in collective bargaining misconduct is deemed to refer to matters covered in codes of discipline. The proposed financial administration act clearly assigns to the Treasury Board the responsibility of establishing codes of discipline,—I am sorry, standards of discipline—you are right, Mr. Lewis—and Bill No. C-170 also clearly identifies standards of discipline as a bargainable and a knowledgeable matter, thereby placing matters of misconduct squarely under the jurisdiction of the grievance process against the appeal process of the Commission.

As to incompetence, if I may refer quickly to the manner in which this word was defined in the old act, which was at Section 2(1)(1), the definition was not particularly enlightening.

Mr. LEWIS: Who cares about that—it is a good thing to leave it out.

Mr. CLOUTIER: If I may read it, it states: "Incompetence" means incompetence of an employee in the performance of his duties, and includes negligence." We have tried to retain the principle of this definition. In the opening words of Clause 31, we say: (1) "Where an employee, in the opinion of the deputy head, is incompetent in performing the duties of the position he occupies—" We try to enlighten a little bit more by going on to say: "—or is incapable of performing those duties—". I might add, one of the staff associations asked that the word be defined more precisely but neither they nor us have been able to come up with a better definition.

Mr. BELL (*Carleton*): Is negligence included in your view now as it was in the old definition?

Mr. CLOUTIER: I beg your pardon.

Mr. BELL (*Carleton*): Is negligence included now as it was in the old definition?

Mr. CLOUTIER: If it is negligence in the day to day manner in which one carries out his duties I suppose it is, but if it is wilful negligence which might be dealt with in a disciplinary manner it would fall into the other system. I think that one would have to see the particulars on the case to give a good answer.

The third point you raised relates to classification.

Mr. BELL (*Carleton*): To Treasury Board.

Mr. CLOUTIER: And here again the proposed Bill No. C-182 clearly assigns to the Treasury Board the responsibility of classification.

Mr. BELL (*Carleton*): But that bill does not define "classify". My only point in relation to it is that the attempt to define has been dropped in the other bill.

Mr. CLOUTIER: I would like to comment on this, Mr. Bell. Unfortunately, I do not find myself prepared at this time to comment intelligently on the provisions of Bill No. C-182.

Mr. BELL (*Carleton*): The only clause I see in there is clause 3 of the Financial Administration Act where under the new clause 7 (1) (c) the power is given to "provide for the classification of positions and employees in the public service". Perhaps you would just flag that and when we come to the other bill see whether any elaboration of definition is needed.

Mr. LEWIS: It is a very difficult clause to deal with.

An hon. MEMBER: Not necessarily.

Mr. CLOUTIER: Just an observation, Mr. Bell. When the classification of the service was first introduced in the civil service legislation forty or fifty years ago, classification was a fairly new science and dealt with positions. The evolution of the whole field of personnel management is such that now perhaps the draftsman of the bill felt that there was no longer that same necessity of defining the word. Furthermore, today classification may not necessarily relate to individual positions.

Mr. LEWIS: Mr. Chairman, may I ask whether the phrase "chief executive officer" in subparagraph (e) (ii) is an actual title or merely a description?

Mr. CLOUTIER: This relates to terms used in the definition section where we define a deputy head as a deputy minister or the chief executive officer of—I am sorry, this is not accurate.

Mr. LEWIS: No, you have two definitions. You define a deputy head. That is clear enough. It is either the deputy minister or a person designated under (e) or a person designated by the Governor in Council. Then you have a lower echelon whom you refer to as chief executive officer. All I am at the moment wondering is whether that is a title or a description of duties that may encompass a number of titles, section head or—

Mr. CLOUTIER: No, it is the title of the chairman of the commission not in his—

Mr. LEWIS: No, no, I am sorry, you are not looking at the right bill.

Mr. CLOUTIER: Which section are we at?

Mr. LEWIS: Look at subparagraph (e) and the sub-subparagraph, at the top of page 2 of the bill.

Mr. BELL (*Carleton*): At the top of page 2 of the bill.

Mr. LEWIS: It concerns later the delegation of authority.

Mr. CLOUTIER: This is a title for instance, in relation to the heads of agencies of government which, by their acts are known as chief executive officers of that agency. It is a general definition only. When the expression is used in the subsection that you are referring to (2) (1) (e) (ii), it refers to the head of that agency.

Mr. LEWIS: In other words, it is not a title in the strict sense. It is a description of an officer—

Mr. CLOUTIER: That is right.

Mr. LEWIS: —having the duties of the chief executive.

Mr. CLOUTIER: That is right.

Mr. BELL (*Carleton*): It is not capitalized.

Mr. CLOUTIER: No, it is all small letters.

Mr. LEWIS: Deputy minister is not capitalized. I will help you there.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions on clause 2?

To clause 2 is carried?

Clause agreed to.

On clause 3.—*Commission established.*

Mr. KNOWLES: Is there any difference between the wording of this clause 3 and the wording of section 3 in the former act?

Mr. CLOUTIER: Yes, sir. There are a few differences. In Clause 3, subclause (1) the change reflects the new title of the Commission. In clause 4 (1), again

this refers to the chief executive officer of the commission. Again, it is a descriptive title in respect of the administration of the commission as a department.

Mr. LEWIS: That is in clause 4.

Mr. CLOUTIER: That is right. No, the only change in clause 3 is in subclause (1) in the title of the Commission.

Mr. KNOWLES: You had already put the setting of the salary the way it is here.

Mr. CLOUTIER: Which clause is that, sir? In clause 3(6)?

Mr. BELL (*Carleton*): Yes, that was in the last bill.

Mr. CLOUTIER: No change. That was section 4 (6) of the old act.

Mr. BELL (*Carleton*): And I think it wise to keep it that way because otherwise they have a habit of getting out of line.

Mr. LEWIS: Downward.

Mr. BELL (*Carleton*): Yes, downward.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions on clause 3?

Mr. BELL (*Carleton*): Is there any nostalgia at all about the name? Have you had any representations at all? "Civil servants", that the name will cease to exist?

Mr. CLOUTIER: None whatsoever, sir, and indeed the reaction that we have been able to detect is mostly on the other side.

Mr. BELL (*Carleton*): It has been mine also.

Mr. KNOWLES: We would still expect them all the same to remain "civil".

Mr. LEWIS: Or as civil as before. They have never been otherwise.

The JOINT CHAIRMAN (*Mr. Richard*): Is clause 3 carried?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any questions on clause 4?

Mr. KNOWLES: Mr. Chairman, I have a very simple question. What happens if there is a vacancy on the Commission. And in this case there are only two members, then what is a quorum?

Mr. CLOUTIER: What is a quorum?

Mr. LEWIS: One and a quarter!

Mr. CLOUTIER: In fact, on occasion, if there is only one commissioner in town, and recommendations have been made, then they are made by that one commissioner in the name of the Commission.

Mr. KNOWLES: If there is only one commissioner in town, she is a quorum?

Mr. CLOUTIER: Exactly.

Mr. LEWIS: Mr. Chairman, the only question that occurred to me when I read clause 4 is the following. Should it not contain a provision requiring that a vacancy be filled within a certain limited period time? It seems to me undesirable

ble that the government for any reason should be able to maintain the vacancy for an indeterminate time. What would be wrong with stating in appropriate language that any vacancy must be filled within three months, so that no government will just sit on it, and in fact the two members, rather than three, govern the situation for a long time.

Mr. CLOUTIER: One answer that I could give to this question, Mr. Lewis, is that in my memory there has not been any instance where a vacancy has remained for more than three or four months.

Mr. LEWIS: But it is conceivable.

Mr. CLOUTIER: It is conceivable. However, talking from the viewpoint of the Commission which, of course, is not in the business of appointing commissioners but in the business of making appointments, I would see one thing wrong with that possibility, that you could have an excellent candidate for the job who for very, very valid reasons could not become available for four or five months. This sort of thing would be precluded by a rigid requirement in the act.

Mr. LEWIS: That is a valid objection.

An hon. MEMBER: The same thing might apply to appointments to the Senate.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

Mr. LEWIS: They are supernumerary.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 4 carry?

Mr. CHATTERTON: Mr. Chairman, I am just curious. What happens if there is a vacancy, and there are only two left; what is a majority then? What is a quorum?

Mr. KNOWLES: I questioned him on that.

Mr. CHATTERTON: Yes, I think you raised it. I did not get the answer.

Mr. CLOUTIER: There has to be two.

Mr. CHATTERTON: There has to be two.

Mr. CLOUTIER: No, I am sorry, if there are two, and they are both in Ottawa then the recommendations go forward with those two signatures.

Mr. CHATTERTON: I see. Is there anything that says any decision must be made by a quorum?

Mr. CLOUTIER: No, there is nothing to say that. By the very nature of the functions of the Commission as a recruiting agency, the commissioners on occasion have to be out of town together. Indeed, we try to manage our affairs in such a way that there are always at least two in Ottawa, but for one day here or one day there, it has to happen that we have to be out of town on recruitment activities. In that instance, that one commissioner has to be empowered to act for the carrying out of public business.

Mr. CHATTERTON: What is the purpose of the clause then?

Mr. KNOWLES: It says in the statute that it is not necessary to have a quorum present in order to make decisions.

Mr. CHATTERTON: Why is it there at all?

Mr. KNOWLES: I am not objecting to your practice of each commissioner in town making the decision, but if you are entitled to do that, then this phrase about a quorum has no meaning.

Mr. CLOUTIER: I am sorry. The making of a recommendation is the transmittal of it, but the formulation of the recommendation is always made in a Commission meeting of more than one commissioner.

Mr. WALKER: The decision has to be ratified by a quorum.

Mr. CLOUTIER: That is right, but the instrument which transmits that recommendation to the Treasury Board may be signed only by one officer.

Mr. LEWIS: The signature on the top of the quorum, in effect.

Mr. CLOUTIER: That is right, but matters of policy—

Mr. KNOWLES: Decisions of policy require two.

Mr. CLOUTIER: Oh, yes, definitely.

Mr. CHATTERTON: Are the provisions similar to the old Civil Service Act?

Mr. CLOUTIER: There is no change at all, sir.

Mr. CHATTERTON: And no difficulties have been experienced at all?

Mr. CLOUTIER: No, none whatsoever.

Mr. KNOWLES: If there are two present and they vote in opposite directions, what happens?

Mr. CLOUTIER: Well, then we resolve our differences, and this is the way we have operated.

Mr. WALKER: Without going on strike!

Mr. CLOUTIER: Not lately.

Mr. LEWIS: You have collective bargaining, then.

Mr. BELL (*Carleton*): Mr. Chairman, subclause (1) was new in the Civil Service Act of 1961, and there were some doubts about it at that time. Has it worked out satisfactorily?

Mr. CLOUTIER: I think so, Mr. Bell.

Mr. BELL (*Carleton*): This was put in at the insistence I think of the then chairman, the hon. Mr. Justice Hughes.

Mr. CLOUTIER: If my memory serves me right, you are correct there. In any organization there has to be only one chief, and in the commission, as in any other—

Mr. KNOWLES: Have you not heard about the Tony Nanty?

Mr. CLOUTIER: I refrain from commenting on that.

Mr. LEWIS: Wait until we reach clause 32.

Mr. CLOUTIER: I will refrain from commenting on that one too. There was a need to recognize that for internal administration purposes there could be only one head of the organization, and on balance I think that that has worked out fairly well.

The JOINT CHAIRMAN: Is clause 4 carried?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There are some proposed changes. I suppose we should have a discussion on this.

Mr. CLOUTIER: The change has been proposed by the Public Service Alliance. It was suggested in their brief that the wording of an expression that appears several times in the bill could lead to misinterpretation: it could be interpreted that the wording "appointments of qualified persons to the public service" would be limited to the appointment of outsiders into the public service.

The officers of the Department of Justice had not thought that there would be this misinterpretation but to the extent that it has been raised and to the extent that the staff associations have asked us to consider manners in which this possible misinterpretation might arise, the members of the Committee might wish to consider a small change to this clause which might say, for instance, "appointments of qualified persons to or from within the public service".

Mr. WALKER: It sets out the intent very clearly.

Mr. CLOUTIER: Yes.

Mr. BELL (*Carleton*): I think whatever the Department of Justice suggests on that would be entirely satisfactory.

Mr. CLOUTIER: If it pleases the members, I could have a formally drafted amendment, possibly tomorrow.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we stand clause 5 until Mr. Cloutier submits his amendment?

Mr. WALKER: Mr. Chairman, are we standing the whole clause, or just 5 (a)? Can we finish up the rest?

The JOINT CHAIRMAN (*Mr. Richard*): The whole clause stands.

Mr. WALKER: Is that the only change, Mr. Chairman, that is proposed in clause 5?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Cloutier could answer that.

Mr. CLOUTIER: That is the only change in the entire clause.

Mr. WALKER: Then, why can we not stand clause 5(a) and go ahead with b, c, d, and e?

The JOINT CHAIRMAN (*Mr. Richard*): That is what I understood.

Mr. WALKER: Oh, all right.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on the other parts of the clause? We will come back to 5(a) tomorrow or at the next meeting.

Mr. CHATTERTON: Mr. Chairman, on 5(d) "report to the Governor in Council" and so on, upon such matters...as the commission...considers desirable". Was that the provision in the previous act too?

Mr. CLOUTIER: This is 5(d).

Mr. CHATTERTON: Is it general that commissions are required to report to the government? Does the Commission itself consider this desirable?

Mr. CLOUTIER: There is no change from the previous act here, except the deletion of a reference to organization and employment.

Under the old act the Commission had a role in organizational matters. Now, organizational matters would be squarely the responsibility of the Treasury Board. Apart from that change, there is no other change in subclause 5(d).

Mr. LEWIS: What is the purpose of 5(d)?

Mr. CLOUTIER: The purpose of (d) is really to bring to the attention of the Governor in Council any matters affecting the human resources of the department that the Commission, in its opinion, feel should be dealt with under authorities that it may not possess under the bill. In other words, it is a safety valve to ensure that the Commission has an opening to be heard in matters it considers of great concern to the public service as an institution.

Mr. LEWIS: Not matters for which it does not have authority surely, because (d) is very clearly related to the legislation and the operation over which you do have authority.

Mr. CLOUTIER: That and the other. You will understand that it relates to the operation. The operation of the act really concerns staffing and the development of personnel. This is human management really and aspects of human management. I will give you an example, that I feel possibly will be for the future.

Assuming that out of collective bargaining the rates of pay that resulted were so low that the Commission could not do an effective job of recruitment of staff. Then this is the sort of thing that the Commission should and must be capable of saying to the Governor in Council, "please, be more generous in bargaining".

Mr. CHATTERTON: Has this report been in the nature of an annual report indicating the extent of its operation, the number of appointments and so on?

Mr. CLOUTIER: No, this is an ad hoc affair. For instance, when the Commission, as a result of the activities of the preparatory committee on collective bargaining examining the recommendations, commenced, close to two years ago, to examine the current act and the changes that would have to be made to it to accommodate collective bargaining, at that point it made a full report to the Governor in Council as to the changes that would have to be incorporated in legislation. That was the beginning of this Bill No. C-181.

Mr. KNOWLES: It reports to Parliament in clause 45?

Mr. CLOUTIER: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 5(a) stand?

Clause 5(b), (c), (d) and (e) agreed to.

On Clause 6—*Delegation to deputy head.*

Mr. BELL (*Carleton*): Mr. Cloutier indicated some possible amendments to this, but I want to make some remarks about it but I would like to hear first what the proposed amendments are.

Mr. CLOUTIER: Yes, sir; I would be pleased to explain. These, again, arise from recommendations made by the staff associations. To start with, the Professional Institute have said that clause 6 as it reads in Bill No. C-181 makes no provision for appeal for the rectification of erroneous appointments made

under delegated authority. They suggested the employee concerned should have the opportunity of presenting his case through a formal procedure in which he might be appropriately represented. Mr. Chairman, the Commission finds itself in agreement with the principle of this proposal. If the public servant concerned has taken the appointment in good faith, then we agree there should be an opportunity for him to be heard if his appointment has to be revoked. In our view this could be accommodated by inserting in clause 6, a section which would require the commission, before revoking the appointment of an employee who had been a public servant, to hold an inquiry at which both the employee and the deputy head could be heard either personally or through their representatives. This is one of the amendments we could have before the Committee at its next sitting.

Mr. LEWIS: I was going to ask you to consider putting that kind of amendment in clause 21. Do you want it separate under clause 6?

Mr. CLOUTIER: I think, for administrative purposes, we would prefer to see it under clause 6 but in terms as closely identical to the terms we find in clauses 21 and 31 as possible.

Mr. CHATTERTON: If I read clause 6 correctly, the Commission has the power, so to speak, to reverse the decision of the person with delegated authority only in the case of appointment. How about cases of promotion or demotion?

Mr. CLOUTIER: A promotion or a demotion is an appointment.

Mr. CHATTERTON: It is so defined in clause 2?

Mr. CLOUTIER: That is right.

Mr. BELL (*Carleton*): Mr. Chairman, it seems to me that the suggested amendment will greatly improve this clause but I am not sure it does away totally with the possibilities of abuse. Before I make further comments perhaps Mr. Cloutier could tell us what the Commission proposes by way of monitoring the authority that is granted here. How closely will they observe the activities of deputy heads and follow what is being done in different departments?

Mr. CLOUTIER: If I might, Mr. Bell, before answering that question specifically, refer to a suggestion that was made by the Public Service Alliance relating to this particular problem arising out of clause 6. The solution they propose really applies to clause 45. They also expressed some concern that the delegation of Commission authority to departments could be abused and they suggested that the Commission might be required to give, in its annual report to parliament, a breakdown, or an outline, of any action that it has taken (a) in delegating authority and, (b) more important in relation to the problems or concern expressed here, any amendment, revision or modification that it has found necessary to effect that delegation. So in effect, if department A finds that it is delegated authority in relation to these matters and its exercise of this authority is sufficiently inept that the Commission finds it has to revise or cancel that authority, then parliament would be officially advised of that fact through the Commission's annual report. Parliament could then take whatever action is felt necessary in relation to this.

Mr. LEWIS: I have a comment related to the same question, before Mr. Bell makes whatever comments he wants to make. I am a little disturbed about the

further delegation which subclause (4) permits. You have a delegation from the Commission to the deputy minister earlier and then you have the right of delegation given to the deputy head to delegate all his functions, including those which the Commission has delegated to him, to someone else. That is one step removed from the Commission and I wonder whether—

Mr. CLOUTIER: In answer to that—

Mr. LEWIS: Before you answer, Mr. Cloutier, I have a feeling—I am not saying this dogmatically—that the Commission ought to have statutory authority to vest that further delegation. The very simple thing I was going to suggest to you is whether it would not be sensible, whether you can see any administrative objection to saying in subclause (4), a deputy head may, subject to the approval of the Commission, authorize one or more people. So that before the deputy head delegates its authority to someone the Commission must approve first the delegation and second the person to whom the delegation is made.

Mr. CLOUTIER: I think your point is met in another way, Mr. Lewis, in subclause (1), where it speaks of the Commission being empowered to authorize deputies and so on, subject to such terms and conditions as the Commission directs.

Mr. LEWIS: With great respect, I do not think it meets it.

Mr. CLOUTIER: This was the intent, that instruments of delegation to departments would specify the manner in which delegations would be accepted.

Mr. LEWIS: But, it is not only the manner, Mr. Cloutier. I never had pride of authorship and if somebody has a better suggestion, by all means, let us have it. But I do not think it is merely the manner, I think—I do not have to tell you, you have greater experience than I in human relations—the person you delegate the matter to is as important as the manner in which it is done. And, because it is removed another further step from the Commission, it seems to be that there ought not to be any practical difficulty about providing in the statute that the further delegation by the deputy head should be subject to the approval of the Commission. I would strongly urge that change.

Mr. BELL (*Carleton*): I think we would agree to that and I would like to go further and say that I would like to be sure that that is specifically dealt with in the report to parliament that we were speaking of earlier.

Mr. LEWIS: That, I understand, the officers are ready to recommend when we get to clause 45, but I would like to urge, Mr. Cloutier, that you consider putting in the words I suggest or equivalent language. I do not care about the language. That this delegation from the deputy head to someone under him be subject to the approval of the Commission?

Mr. CLOUTIER: Could we have an opportunity to discuss this with lawyers to see what the best wording possible is.

Mr. LEWIS: By all means; I am a lawyer but not a drafter.

Mr. CLOUTIER: This is what I meant, sir, I am sorry.

Mr. CHATTERTON: Mr. Chairman, on the same point, in clause 10, the Commission may appoint by competition or other such process. What might happen if the deputy head delegates authority of appointment to some junior

officer and he considers that a competition is not necessary and he can make an appointment based on the merit of his own judgment?

Mr. CLOUTIER: This is the sort of thing that is meant in "terms and conditions as the Commission directs".

Mr. CHATTERTON: There again, I am wondering if it would not be well to spell out that where such further delegation is approved by the commission it shall insist that a competition be held.

Mr. CLOUTIER: This might be unnecessarily binding, Mr. Chatterton.

Mr. CHATTERTON: I see.

Mr. CLOUTIER: There are a great number of cases where a competition is not necessary, and, indeed, where, for the sake of efficiency, a competition would not suffice and would bring about a tremendous time delay. I would like to give you one example of this, and perhaps there will be occasion to come back to this particular example. One department of government went through a major re-organization several months ago. As a result of this there were about 24 high and intermediate posts to be filled. Now, to have gone through the competition process to do this would have required a great many months, because the competitions would have had to follow each other, with the result that the department could not have gone ahead with the job and got its re-organization in hand and its operation re-arranged. Therefore, we examined the possibility of ensuring the application of the merit system through a more flexible arrangement. This is what we ended up by doing. We had the department compile, and we, indeed, assisted the department in question in compiling, a full list of all their employees at the level of the positions and of two or three levels below the level of these positions. Once we had all these employees identified we went through a detailed appraisal of their past performance, their qualifications and so on and so forth, which detailed appraisal included an interview with the employee, a discussion with the person's supervisor and so on. On the basis of that examination—I forget now the number of employees, but I suspect it over 125—we were able to appoint the best qualified persons in these jobs and the whole thing was done in a matter of a few months.

Mr. CHATTERTON: Mr. Chairman, I think Mr. Cloutier missed my point. I am not opposed to the power of the commission to appoint without competition, nor perhaps even the power of the deputy head to appoint without competition. I am saying that where the authority is delegated beyond that, to a lower level—

Mr. CLOUTIER: There are other practical problems here. You have to appreciate that we are now bringing under this new employment act all prevailing rate employees for whom, over the years, it has not proven feasible to hold competitions, and, indeed, the intention here is to make greater use of the manpower department for the identification and selection of prevailing rate employees. This would be done under delegated authority by the departments acting with the Department of Manpower and Immigration. This is not the competition process as it is defined in the act.

Mr. CHATTERTON: No. On precisely that type of thing you are mentioning now, for instance, in the dockyard in Esquimalt there is a feeling among the prevailing rate employees, whether it is justified or not, that there is a certain amount of favouritism in the appointments on a local level. I am still not saying

that there should be a competition, but that in such a case the appointment might be recommended by the local supervisor but the actual appointment would be made, say, by the deputy head, rather than by some officer lower down, who has a delegated authority.

Mr. CLOUTIER: Indeed, would that not be a hollow procedure, really, because the deputy head, as you know, would be just signing his name?

Mr. CHATTERTON: He should not.

Mr. CLOUTIER: Well, can he, the deputy head, personally ensure that when he signs that paper he has a full knowledge of the cases? This, again, is part of the whole new philosophy of management which so many are trying to bring into the public service, where managers at every level of activity are given the opportunity to have full responsibility and full authority over their activity. The roles, I think, of the central agency and of the uppermost levels of departmental management are to ensure that clear policies are laid down, clear directives are available and that co-ordination is ensured; but once this is done, surely we must devise a system which permits delegation to the manager so that he has the tools to get on with the job that he is supposed to be doing.

Mr. CHATTERTON: I submit, Mr. Chairman, that the question of time or cumbersome procedure need not be of major significance, because it would be really the final approval given by the deputy head. I think the mere fact that final approval is to be given by the deputy head would tend, in the first place, to make the employees think there is no local favouritism, and, in the second place, that the immediate supervisor would be very careful to ensure that he cannot be accused of favouritism, which is the case now—at least in the dockyard, not in other departments.

Mr. CLOUTIER: I would suggest, Mr. Chatterton, that this assurance could best be given by a closer monitoring of practices rather than having the deputy himself approve appointments. Let me give you an example. For instance, in the Department of National Defence, which, of course, is responsible for both dockyards, there are employed every year, I would think, at least 5,000 or 6,000 new prevailing rate employees. I think it would be most unfair to ask the deputy to personally approve all these appointments.

Mr. LEWIS: Particularly plumbers or electricians.

Mr. BELL (*Carleton*): Mr. Chairman, I think the amendments which have been proposed for this section will greatly improve it, but I would like to reflect on the fact that I still have the gravest reservations about this proposed new system. I realize that it stems principally from the Glassco Commission report, but I have never been one who necessarily worshipped at the feet of Glassco, and I want to state very emphatically that I think that the possibilities of genuine abuse exist in the enactment of this section.

I personally have the greatest of confidence in the independence and impartiality of the Civil Service Commission. I have grave reservations on whether that full independence and impartiality will exist throughout the public service in the hands of deputy heads. We might as well be realistic. Many deputy heads are subject to influence from ministers. This section could very easily be the back door to a return to a system of political patronage in major roles, a system which was effectively outlawed by the Civil Service Act of 1918.

I realize that in saying this I am probably reflecting a minority view, but I do want to express in the strongest terms a caveat about this type of delegation. If there is to be the delegation then I venture to suggest that it must be subject to the strictest possible review by Parliament, that the reports to Parliament must be as complete as possible and that those who are in Parliament must make certain that the abuses which are possible here, which, indeed, are virtually inherent in the section, are prevented from in fact occurring.

Mr. CLOUTIER: If I may comment on this, Mr. Bell, I would say that my colleagues and I support and endorse everything you have said. Indeed, I would like to refer very briefly to some of the things which Mr. Carson said last week before the committee on this very point. He said that the delegation of the commission's authority would not be achieved overnight.

The first point that Mr. Carson made was that the deputy heads must be willing to accept delegation. This will not be forced on the deputies, and, indeed, it will not be given even to a willing recipient until the commission first of all has satisfied itself that that deputy has the resources in personnel advisors and technicians, to administer this delegation properly.

The point that Mr. Lewis made in changing subsection 4 of 4, would further strengthen that provision.

In doing so the commission would exert its authority in training and developing resources in the personnel field and, indeed, in the last two years the whole personnel community in the public service has been tremendously revitalized and renovated.

Thirdly, this delegation would be consented to only where there are effective standards of selection. Following upon the classification revision program about which we talked yesterday, I think, dealing with the redrafting of classification standards we in the commission are now embarking on a similar exercise to renovate and update all our selection standards; so that, again, there would have to be acceptable standards of selection before delegation would take place.

To come back to the monitoring system, Mr. Bell, which you have said is so important, and with which the commission agrees, let me read you the four elements of this monitoring system which we so much believe has to be put into effect: A systematic analysis of results from the field to identify and isolate any case of misinterpretation or misuse of selection standards by commission or departmental officers; periodic statistical analysis of the distribution of employees by occupation and level to identify shifts that might be attributable to improper application of standards; systematic spot-checking of individual cases selected at random in each occupation and level to insure that the provisions of the act and regulations are being met by officials holding delegated authority; periodic review of staffing processes of the commission's own organization and in departments to develop increasing competence of staffing officers in the application of the commission's standards.

Now, having said this, let me refer to the experience of the United States where they also delegated authority to the departments, and where they also developed a system of monitoring. The experience has been very successful in the United States and, by common agreement, has not impeded the application of the merit system throughout the operation.

However, there is another point which was made by the staff associations, with which the commission finds itself in agreement, and which I have not mentioned yet. This, again, relates to section 6. One of the associations—I think it was the Alliance—observed that in the manner in which subsection 2 was drafted it referred to a person who “had been” appointed,—in the past tense—and it observed that it might be difficult to implement because the action would have already taken place. With the continuing system of relationships that is envisaged with the departments, the suggestion was made by various associations that some wording should be included there to cover appointments which might be made, or were on the point of being made and, indeed—

Mr. LEWIS: Both. That is both?

Mr. CLOUTIER: Oh, yes.

Mr. LEWIS: Appointments that are in the process and appointments that have been made.

I have another suggestion to make to you arising out of Mr. Bell's comments. It had not occurred to me before, but if you look at subclause 2 of clause 6, you find the words “Where the commission is of opinion that a person who has been appointed—” by the deputy head pursuant to the authority—I am not reading it word for word—“does not have the qualifications that are necessary”—It occurred to me while Mr. Bell was speaking that if you did not think it interfered with the administration you might add words which would also give you, the commission, the power to act if the person appointed had been appointed in the wrong way, or had been appointed without observing the principles of selection which you have laid down, even though he may have the qualifications. Do you follow me? The authority you have now to change the appointment is applicable only if the person is not qualified. I can well imagine that there could be two people equally qualified and one of them was chosen in a manner different from, or even contrary to, the principles of selection which you have laid down.

Mr. CLOUTIER: You are saying, in effect, “in contravention of any terms and conditions. . .”

Mr. LEWIS: Precisely. I think that you meet a good deal of the objection that Mr. Bell raised—and it would appear to be justified—if you add in subclause 2 of clause 6 words saying that you also have the authority, if the appointment was made in contravention of the terms and conditions you laid down when you delegated the authority.

Mr. CLOUTIER: Can I discuss this—

Mr. LEWIS: Do you not think that would be worthwhile? I think that would take you a long distance. It would increase your authority in dealing with an improper appointment.

Mr. BELL (*Carleton*): It would not meet my point fully, but it would certainly be helpful.

Mr. CHATTERTON: Mr. Chairman, I have another point with regard to clause 6, subclause 2. The commission, in effect, according to 6 (2), can reverse the decision of the person who has the delegated authority only if the appointee has

not got the qualifications. But suppose the situation arose where there were two applicants, and the one appointed had the qualifications but the other one who was rejected was better qualified?

Mr. CLOUTIER: Then he would have appeal rights under section—

Mr. CHATTERTON: Yes; but this does not give the commission the power to reverse that decision.

Mr. CLOUTIER: Oh, yes. That power would be available under section 21, where it says, “—the commission shall—if the appointment has been made, confirm or revoke the appointment as it sees fit; or if the appointment has not been made, make or not make the appointment as it sees fit.”

Mr. CHATTERTON: Mr. Chairman, I have another comment with regard to this.

I share the concern of Mr. Bell. If there were provision in this bill for a first appeal on the basis of an appointment, promotion, and so on, to the commission, and then a final appeal to some other tribunal, I think the danger that Mr. Bell has outlined would be lessened.

In other words, these people who are delegated the authority to make appointments would know that there is always a final appeal, and a person who is affected by the appointment also has the knowledge that there would be a final appeal beyond the civil service commission. Then the danger with which Mr. Bell is concerned would be considerably lessened. No one could doubt the independence of the commission.

Mr. CLOUTIER: I quite agree with this. I quite see the position you are taking. Let me answer this way—and here we are really attacking the very core of the existence of the merit system and an independent commission. If it is true that it makes sense to have a merit system in the public service, then there has to be one body to administer it, or else, invariably, you will end up with two merit systems, one which is administered by one of the bodies and one by the other.

If there were a situation where the commission under this act would be charged with the responsibility for making appointments in accordance with these principles, and so on, and then there was granted to some other body the power of dictating to the commission to make a given appointment, in spite of the fact that, under the proposal which I think you outlined, the Commission would have already passed judgment on the merits of the case and declined to act, then what would be the merit system?

Mr. LEWIS: Again on section 21, I want to make a suggestion to you, but I do not know whether this is the right time or not. When we get to the appeal aspect I would like to suggest a possible way out to you.

Mr. CHATTERTON: Mr. Chairman, even if such final appeal is granted, I do not think the argument which Mr. Cloutier advanced reduces the value of the merit system as proposed. I do not think it does; but in any case, even if such final appeal must be with the consent of the Commission, or even where the referral to the findings of this tribunal may not be binding, it may be in the form of a moral obligation for the commission to reconsider its position. Even those limited provisions, I think, would be of assistance in ensuring that the abuse of delegation will not destroy the independence of the Civil Service Commission.

Mr. CLOUTIER: I do not know how deeply you would want me to get into this answer. Mr. Lewis has indicated that there will be other questions on section 21, but I could give you—

Mr. CHATTERTON: Do you want me to wait until we get to clause 21?

The JOINT-CHAIRMAN (*Mr. Richard*): We will stand clause 6, subject to Mr. Cloutier's return.

Mr. LEWIS: You will take the suggestion I made on section 2 into consideration?

Mr. CLOUTIER: Yes; I will be discussing lawyers of the Department of Justice this afternoon.

Mr. WALKER: Mr. Chairman, I would like to refer to clause 6 (1). Are we dealing with it?

The JOINT-CHAIRMAN (*Mr. Richard*): I think we had better stand the whole section.

Mr. BELL (*Carleton*): In clause 7, I notice in subclause (2) that for the first time an officer of the commission is given the powers of a commissioner under the Inquiries Act. I have no objection whatever to the commission or a commissioner having that, but I wish you would try to persuade me that it is all right to delegate this rather extraordinary power to just any officer of the commission.

Mr. LEWIS: May I, before you answer, say that at the moment I agree with Mr. Bell. I think that if you have a situation where you have to make the kind of investigation that requires the powers of the public Inquiries Act that investigation should be made by a commissioner, not by some person delegated to do it. To use a word which I hope you will not find offensive, the "snooping" necessarily involved under the very wide powers of the public Inquiries Act should be done only by a member of the commission, who has the authority and the status in the eyes of the employee and the lower management people that no officer you may appoint on your staff can possibly have, in their eyes. I do not know whether you are likely to have such investigations so often, that they are likely to be so numerous that it makes it, in practice, impossible to lay the burden on the commissioners. If that is so, my comments may be counteracted, but if that is not so, I think there is a great deal of validity in what Mr. Bell has said.

Mr. CLOUTIER: Could I comment just on the spirit that animated this change? There has been a consistent aim throughout the drafting of the section to eliminate from it inflexibilities which might, in circumstances which are difficult to foresee at the moment, create administrative problems. I agree with you that the number of times that this occurs is very, very seldom. As a matter of fact, I do not know of any instance where this—

Mr. LEWIS: Mr. Cloutier, if you will permit me to interrupt you, there are two stages in the thing. You have the experience. I am dealing with it based on an experience which is not direct. You could easily have an officer make the initial inquiry to satisfy you whether or not the kind of investigation here contemplated is necessary. The officer may go and talk to people and bring a report to you, which would then persuade you that a full investigation is

necessary, or persuade you that it is not necessary. But that officer ought not to have these powers. That preliminary inquiry which, I imagine, administratively you would want to make before you jumped into an investigation, does not require these powers. But if you decide in the commission that a full investigation is needed, then I think Mr. Bell is entirely right, subject to what you might have to say, and that that kind of investigation should be made by a commissioner. If you give someone the powers of the public Inquiries Act it should be the commissioner and not the officer who might be used to make the preliminary inquiries or investigation to satisfy yourself whether there is a *prima facie* case to justify further investigation.

I would like to urge that you give that consideration.

Mr. WALKER: May I ask Mr. Lewis a question. You are suggesting that this officer might have all the power and authority of a commissioner up to the point of final decision?

Mr. LEWIS: I can imagine that some problem has arisen out in Calgary, Edmonton or Vancouver and that the investigation has to take place locally—I am giving a simple example—and that the Commission, before it undertakes the kind of full investigation which the powers of the Inquiries Act contemplate, will send an officer of the commission out to make inquiries, to find out what the situation is, because presumably the communication to that point will have been by letter and by telephone, and they can easily do that and give him any instructions they like, but the full investigation itself should be made by a commissioner.

Mr. CLOUTIER: Perhaps if I could be permitted to consult with the officers of the Department of Justice on this point, Mr. Lewis.

Perhaps I could make one comment. There are other statutes where officers of some departments and agencies are given these powers.

Mr. BELL (*Carleton*): Then I think we should amend those acts.

Mr. CLOUTIER: I do not see any problem with your suggestion, personally, and, indeed, I think my colleagues would agree with me because there has not been that many occasions.

Mr. KNOWLES: How many have there been?

Mr. CLOUTIER: I do not remember one, or hearing of one.

Mr. KNOWLES: How many inquiries are there where the commissioners act under the act?

Mr. CLOUTIER: I do not remember of one. This is just a holdover from the old act.

Mr. BELL (*Carleton*): I feel very strongly about this, Mr. Chairman, and unless some very strong reasons are advanced, I would propose to move—and I will just put my proposed amendment and suggest that it stand—that in line 24 the comma after the word “Commission” be struck out, and that the word “or” be substituted therefor; and that also in line 25, the words “or an officer of the Commission” be struck out.

Mr. CHATTERTON: I will second that.

The JOINT-CHAIRMAN (*Mr. Richard*): It is moved by Mr. Bell and seconded by Mr. Chatterton that in line 24 the comma after the word “Commission” be

struck out, and the word "or" substituted therefor; and that in line 25 the words "or an officer of the Commission" be struck out.

Mr. LEWIS: How would it read?

Mr. BELL (*Carleton*): "...or a commissioner... holding an investigation has all the powers—"

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Bell has suggested that this clause stand until Mr. Cloutier returns with further information. Is that agreed?

Some hon. MEMBERS: Agreed.

The JOINT-CHAIRMAN (*Mr. Richard*):

On clause 8—*Exclusive right to appoint.*

An hon. MEMBER: Did we pass clause 7 (1)?

Mr. CLOUTIER: Here again, this is on the same point of ensuring that the appointments are to or from within.

Mr. WALKER: You are bringing them in in this proposal?

Mr. CLOUTIER: That is right.

Clause 8 stands.

The JOINT-CHAIRMAN (*Mr. Richard*):

On clause 9—*Diplomatic appointments.*

Mr. KNOWLES: Mr. Chairman, just for my information, may I ask what happens to their rights in the civil service when career employees move up to these lofty positions? I am thinking of the person who has been a civil servant in the Department of External Affairs all his life, and who is appointed an ambassador—not as some of them are. Does he still have civil service rights?

Mr. CLOUTIER: Yes, he remains a civil servant.

Mr. KNOWLES: These people who are appointed from outside the service are not civil servants. We give them some special pension?

Mr. CLOUTIER: There is a special diplomatic pension plan for them. This is not changed from the previous act.

Mr. BELL (*Carleton*): I realize there is no change in this, but, Mr. Cloutier, is it not a fact that actually most of the other persons not enumerated are recruited by the commission?

Mr. CLOUTIER: Yes, and indeed they are, in most cases public servants, but if my understanding of this arrangement is correct their credentials come from governor in council and not from the commission.

Mr. BELL (*Carleton*): This is a reservation of the prerogative policy.

Mr. CLOUTIER: That is correct.

The JOINT-CHAIRMAN (*Mr. Richard*): Does clause 9 carry?

Some hon. MEMBER: No.

Mr. KNOWLES: Mr. Chairman, on that chart we had the other day we had foreign service people. I understand that includes External Affairs and the Departments of Trade and Commerce and Immigration?

Mr. CLOUTIER: That is right, sir.

Mr. KNOWLES: Does the phrase "other persons to represent Canada" include anybody in those categories?

Mr. CLOUTIER: This is really official representation in international bodies; that sort of thing.

Mr. BELL (*Carleton*): Are "other persons" *ejusdem generis* with those enumerated in (a), (b), (c) and (d)?

Mr. KNOWLES: Could you say that in French?

Mr. CLOUTIER: The "other persons" may not always be public servants. Delegations to the United Nations, for instance, include Canadian citizens who are not civil servants.

Mr. LEWIS: I think Mr. Bell is right. I imagine, in legal interpretation of the clause, "other persons" would be interpreted to be within the same class of people as (a), (b), (c) and (d); the same kind of person.

The JOINT-CHAIRMAN (*Mr. Richard*): Shall clause 9 carry?

Clause 9 agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*):

Clause 10—*Appointments to be based on merit.*

Mr. LEWIS: Mr. Cloutier, why do you have the limitation "at the request of the deputy head concerned"?

Mr. CLOUTIER: Unity of management.

Mr. LEWIS: Well, would it be in every case. You say:

10. Appointments to the Public Service shall be based on selection according to merit, as determined by the Commission . . .

I am not raising an objection, I just could not understand.

. . . and shall be made by the Commission, at the request of the deputy head concerned . . .

Are they not appointments which you could make without a request from a deputy head?

Mr. CLOUTIER: No; because it is the deputy head who administers his funds, and, indeed, the commission cannot force bodies on the deputy head and say: "Pay them," if the deputy head does not have the funds, for one thing. The deputy head, if he is the chief executive officer of the department, has to have control over his resources.

Mr. LEWIS: I see. He decides on the establishment he requires and you then give him the bodies.

Mr. CLOUTIER: The initiative has to come from him.

While we are on this section, Mr. Chairman, again there is the same change—appointments to or from within.

There is another comment which was made by the Alliance, I think. The clause reads at line five, "...by competition or by such other process as the Commission considers—", and so on. The observation was that "process" is too

vague a term and is not necessarily related to the merit system. The suggestion was that some word be introduced into the clause to indicate that "process" was really a process of personnel selection designed to establish the merits of candidates.

We are in full agreement with that suggestion, and with your permission I would like to present tomorrow an amendment which would accommodate that suggestion, sir.

Mr. CHATTERTON: I would like to ask a question following on the reply to Mr. Lewis. The commission still has control over the total establishment?

Mr. CLOUTIER: No, sir. The commission does not have control over establishment since the act of 1961. This control is under the Treasury Board.

Mr. CHATTERTON: I see. You cannot fill a position if it goes beyond the authority of Treasury Board?

Mr. CLOUTIER: That is right.

Mr. LEWIS: I presume you would use the authority given you in 5(d); if you felt that an establishment in a department was inadequate to do the job you would go to the governor in council and draw that to its attention.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 10 stands subject to Mr. Cloutier submitting a further suggestion about amending, as stated.

Clause 11—*Appointments to be from within Public Service.*

Clause 11 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On clause 12—*Selection standards.*

Mr. KNOWLES: Mr. Chairman, should we not add sex to clause 12(2)?

The JOINT CHAIRMAN (*Mr. Richard*): What?

Mr. KNOWLES: Sex—S-E-X; that is very popular. In clause 12(2) we have no discrimination "against any person by reason of race, national origin, colour or religion." Why should not "sex" be added? Is anybody against "sex"?

Mr. CLOUTIER: I see no problem there, Mr. Knowles.

The JOINT CHAIRMAN (*Mr. Richard*): Maybe the ladies would object that it should have to be there.

Mr. KNOWLES: Seriously if we are—

The JOINT CHAIRMAN (*Mr. Richard*): I would like to suggest that it come from the ladies.

Senator FERGUSON: I certainly would support it, because I think it should be included as it is in very many other—

Mr. LEWIS: I assume that Mr. Knowles was worried about discrimination against the males.

Mr. KNOWLES: I move, seconded by Senator Fergusson, that the word "sex" and a comma be inserted after the word "of" in line 24. I will have it written out.

Mr. LEWIS: You mean sex antedates "race".

Mr. KNOWLES: Yes. So it would read as follows:

--any person by reason of sex, race, national origin, colour or religion.

The JOINT CHAIRMAN (*Mr. Richard*): I would like to think that the other sex would feel that they always had that right and that we are not granting them something to which they are entitled.

Mr. KNOWLES: Mr. Chairman, you misunderstand me completely. I am looking forward to the day when our sex may need the protection.

The JOINT CHAIRMAN (*Mr. Richard*): I am looking forward to that day, too.

Mr. WALKER: You are going to object to this amendment on sex, are you.

An hon. MEMBER: No.

Mr. LEWIS: You do not need the good offices of the Department of Justice for this simple amendment.

Mr. WALKER: I thought there might be connotations, sir.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure we are just as able as the Department of Justice to understand the connotations? Do you have any objections to putting in "sex."

Mr. KNOWLES: It is moved by the member for Winnipeg North Centre that Clause 12(2) be amended by inserting the word "sex" and a comma thereafter in line 24 after the word "of", so that it would then read:

12. (2) The Commission, in prescribing selection standards under subsection (1), shall not discriminate against any person by reason of sex, race, national origin, colour or religion.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved by Mr. Knowles and seconded by Senator Fergusson that Clause 12, subsection (2) be amended by inserting the word "sex" and a comma thereafter in line 24, after the word "of."

Some hon. MEMBERS: Agreed.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 12 carry as amended?

Mr. BELL (*Carleton*): Before it does carry may I ask Mr. Cloutier whether there is anything in the existing Act which sets forth selection standards in the way this section purports to do? If there is not, then what is the purpose of subclause (1)?

Mr. CLOUTIER: The section in the current act that relates to this clause 12 is section 33. Pursuant to sections 5(1) (b) and 7(1) (c) of the proposed Bill No. C-182, the Financial Administration Act, standards for the classification of positions will be within the scope of the Treasury Board, and for effective selection there must also be qualification standards. This subclause ensures that the commission will be authorized to prescribe such standards as long as they are not inconsistent with the classification standards. For purposes of illustration, the qualifications mentioned in section 33 of the current act have been expanded to cover the items that have, in fact, been recognized and used as qualification standards over the years, namely, education, knowledge, experience and language. Age limits specified both in the current act and the bill usually apply only to training or entry classes.

Mr. BELL (*Carleton*): The spelling out of this or any other matter makes me wonder whether we might not say that merit is not merit, merit is whatever the commission may say at any particular time in accordance with its whim.

Mr. CLOUTIER: Merit under the current act is, if I may just consider this particular point you are raising, the qualifications that are mentioned in section 33 of the present act, and that is all. These qualifications are not defined in the act. In point of fact, over the years they have been education, knowledge, experience, language, physical ability, personal suitability and other similar qualifications.

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Mr. BELL (*Carleton*): Yes. Well let me spell out my concern in relation to this, Mr. Cloutier, which I think is well known to you. The commission has recently adopted the policy that a percentage advantage shall be given to candidates for knowledge of language. Now, this would cover that situation which, in my submission, was not covered by the old act and would also enable the commission to give percentage advantages in relation to residence, in relation to age, in relation to a lot of other factors that are not, perhaps, totally irrelevant to merit of the individual. Now, I am concerned to see that you do not get an expansion of saying that all these incidental things are entitled to certain percentage points in the determination of merit. If you do the merit system is gone completely.

Mr. CLOUTIER: Well, the evaluation of the merit of an individual, the degree to which he possesses the qualifications that are required or that are desirable for the job, are always considered in relation to the nature of the duties to be performed. This is a *sine qua non* condition.

Mr. BELL (*Carleton*): But is that not a matter of job specification rather than of evaluation?

Mr. CLOUTIER: Well, the job specifies that there are, for instance, certain qualifications that are an essential element, and then there are certain qualifications which would be very useful and which would be highly desirable but they are not essential. In effect we are saying if we can find an individual who has the essential qualifications and in addition he has the desirable qualifications, then he is better qualified than the individual who has only the essential qualifications.

Mr. BELL (*Carleton*): This is where I clash with you directly on that. I submit that is a matter that ought to be set down in the specifications for the job; the age or residence, or what have you, is set out when you advertise the job. When you get to evaluating the merit of the person to hold that job, these factors then become irrelevant. You have already provided for it in your specifications.

Mr. CLOUTIER: Oh yes, but that is part of the specification, and on the basis that you have a candidate who does not come within your age limitations, then that candidate is automatically ruled out. It is the same as if you specify that for this job you must have university graduation, and then all non-university graduates are ruled out. But there are jobs where you say we would like to have a university graduate in this job, but if we cannot find one we would consider a university graduate with two years' experience or we would also be willing to consider a non-university graduate, let us say an upper school graduate, with five years' experience. This is all relative. In addition, we might say we would like a university graduate, a straight B.A., but if we can have someone who has a speciality in business administration, then this is a desirable asset and additional credits will be given for that additional qualification. My point is that

in a great number of cases it is not practical to limit the selection criteria to very, very narrow possibilities.

Mr. BELL (*Carleton*): Well, let us deal with a specific situation. For example, a knowledge of language; as you know and the commission knows, my view is that knowledge of language should be a matter of the job specification and where there is a requirement of bilingualism, that should be set forth in the advertisement and none but those who are bilingual have the right to this position. But where the job specification is unilingual, whichever language, then I am unable to see how it is proper, if you are operating a merit system, to import at that stage in the evaluation of merit a knowledge of two languages in order to hold a unilingual job.

Mr. CLOUTIER: Well it is not quite as cut and dried, if I understand you, Mr. Bell, as I think you are saying. There are a great number of instances where the knowledge of a second language is useful. It is not essential.

Mr. BELL (*Carleton*): You are evidence of that, Mr. Cloutier.

Mr. CLOUTIER: Well, I do not hold my appointment under the Civil Service Act.

It is where it is useful but not essential. Where it is useful for the conduct of public business, but not essential, then I think under the present act, as under this bill, the commission would be totally justified in saying the knowledge of a given language is essential, but if we have a candidate who, in addition to having that knowledge, has a sufficient degree of knowledge of a second language, then that is worth more to the public service. In that set of circumstances it makes sense for the achievement of the objectives of the department, the service of the department to its clientele to have staff who can conduct business in both languages.

Mr. CHATTERTON: When you say worth more, you mean the position is worth more money? Is that what you meant?

Mr. CLOUTIER: As of today it is exactly the same salary.

Mr. WALKER: Mr. Chairman, I think Mr. Cloutier is saying it is particularly relevant when you get into the area of promotion, not of original appointment, where a man—this surely is part of the merit system—who does want to have a career in the civil service may find himself, because of his knowledge of language and even if it is not needed originally, able to move in four different directions. One of them may be in an area where it is most useful to have this other language. I think it ties up with the career opportunities.

Senator CAMERON: Mr. Chairman, Mr. Walker has touched partly on it. You may be making a lot of appointments in a specific area where a unilingual person is satisfactory at that time, but I assume you would nearly always envisage the fact that this person might be moved to another area where the other language would be very useful or almost a necessity.

Mr. CLOUTIER: To this extent, Senator Cameron, under a totally different program of the commission we are conducting classes in both official languages to give an opportunity to public servants of the various departments and of the various centres across Canada to acquire proficiency in the second language.

Senator CAMERON: In other words, you get more flexibility?

Mr. CLOUTIER: Exactly.

Mr. BELL (*Carleton*): My only point is that I object to the commission, as an attribute of merit, giving percentage evaluations for any of the items of selection standards which are set forth in clause 12 and particularly in relation to "or any other matters". These, I think, can lead to driving a horse and cart through the merit system. To me merit is merit and it ought not to be subject to this variety of selection standards, which in my view go to the job specification and not to evaluation of the individual on the basis of merit.

Clause 12, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On Clause 13—*Area of competition*.

Mr. CHATTERTON: May I ask, on clause 13, why only in the case of competition shall the commission determine area? Why not in the other process also?

Mr. CLOUTIER: This is, again, an administrative arrangement because competition is a process that has been defined very precisely in law for the last 50 years. This again is a holdover from the previous legislation. This whole definition lays down the principles of the application of the merit principle and, indeed, the other processes are patterned along the same principle. I gave you an example earlier of that department that had re-organized. Again, you see, if we had conducted competitions it would have covered the same area.

Mr. CHATTERTON: I ask why does it not say "may"? Why should it say "shall"? I am just looking for information.

Mr. CLOUTIER: I think, if I am not mistaken, it is a holdover from the old act. I do not think there is any other explanation.

Mr. CHATTERTON: It does not create an unnecessary restriction for the commission?

Mr. CLOUTIER: Not in the area of competition because in an area of competition, where people have a right to apply, they have to know beforehand if they actually do have that right.

Clause 13 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On Clause 14—*Notice*

Mr. LEWIS: Mr. Chairman, I can understand making optional which language is used in section 16(2), which deals with the test or interview which will be conducted in English or French at the option of the candidate, but I wonder whether it is not time that all federal notices should not always be in both languages?

Mr. CLOUTIER: Well, Mr. Lewis, this is a holdover from the old act and I would think that the legislative provision here is a minimum one. In other words, it says that ineligible persons shall be capable of being given notice in a language they will understand.

Mr. LEWIS: Mr. Cloutier, I do not want to make a speech on this subject but I have had a feeling that our failure over many decades to recognize the bilingualism of Canada, as far as the federal administration is concerned, as a matter of course may be the cause of certain differences and conflicts in Canada that might have been avoided. Unless I can be shown a reason why it should not

be possible that a notice, even in a small village in Quebec where nobody may speak English, should be both in French and in English, or a reason why in some area where nobody speaks French it should not be in both languages, unless I can be shown some social or political reason for this, I will so move this after some discussion, if I am not persuaded otherwise. Your notices, as distinct from the interviews—I am speaking only about the notices—in my opinion it is time we got to the point where any act done by the federal Parliament and the federal agencies under the Public Service Commission be done in both languages, not in either/or, but in both at all times.

Let me add there have been some unfortunate events recently in a place in Ontario because both languages were used on a federal building. No doubt we will go through that kind of thing for some years. However, I have a very deep conviction that the sooner we stand up to that sort of attitude, which I think is not good for Canada, the sooner we will arrive at the point where people will accept the fact of federal Canadian bilingualism, and I am deliberately including the limitation “federal”, and that notices in both languages are a step in that educative process in Canada.

Mr. CLOUTIER: Could I answer by explaining what the practice is? The practice at this time is that notices of vacancies are available in the two languages on request. However, it is for administrative and budgetary reasons, and only for these, that the public advertising is not always conducted in both languages. It is conducted in both languages by direction of the commission in every instance where the population breakdown in the field of competition between English-speaking and French-speaking is such that it makes it desirable. Indeed, the figure that we have been using is 10 per cent minority.

Mr. LEWIS: This is exactly what I personally object to. This is what I feel very deeply is at fault.

Mr. CLOUTIER: If I may continue, the reason for this arrangement is the lack of translation, for instance, across the country. Mind you, on social and nationalistic grounds I can only agree with you wholeheartedly, I assure you. But at this point the only limitation is one of administrative means. It is not feasible at this point in time to ensure efficiency of operations and at the same time provide advertising in both languages across the length and breadth of the land. However, in spite of the administrative difficulties, in every area where the population breakdown is such as to make it eminently desirable, then the advertising is conducted in both languages.

Mr. LEWIS: Well, Mr. Cloutier, I personally am not satisfied because this is a purely utilitarian approach to a problem that I think is much deeper than the pure administrative consideration. I do not have in mind that if you advertise in a local paper in some city or town in Quebec and the paper is only in French that you have to do it in French and in English. That would be absurd. Or, if you advertise in the *Toronto Star* that you have to do it in both languages. You advertise in the language of the newspaper. I think it is possible to amend it in such a way as to avoid that kind of absurdity. There is no sense putting a French notice in the *Toronto Star* or an English notice in *L'Action*. It does not make any sense. But the notices that you put up in the buildings, the notices that go to your employees, those notices should be in both languages. I do not care how difficult it is to get a translation; if it is difficult, let us make it easier. Let us act like a

bilingual country and have sufficient translators so that you are not faced with that difficulty. In my humble opinion it is worth the expenditure of a few thousand dollars to build a better foundation for Canadian unity. But those notices within the service—I am not talking about newspapers—always ought to be in both languages no matter where they reach, in my opinion, and I will read the language I can read and ignore the language I cannot read. But I will, as a Canadian citizen, get used to the idea that when something comes out of Ottawa, or a department related to Ottawa; it comes to me in both languages, and it is about time that all Canadians got used to that idea.

Mr. CHATTERTON: May I ask a question? Do all the notices emanate from the public service commission office here?

Mr. CLOUTIER: No, Mr. Chatterton.

Mr. CHATTERTON: Some could emanate from the office in Victoria, for instance?

Mr. CLOUTIER: That is precisely the point I was making with Mr. Lewis. Let me say again that all promotional competition posters are available in both languages and this is the practice that is followed in the commission, which is consistent with the declarations of the Prime Minister last April. I would have no objection at all, Mr. Lewis, to seeing an amendment to this section which would reflect your hopes, as long as it does not create the sort of absurdities that have been pointed out.

Mr. LEWIS: May I ask whether the members agree that section 14 stand and Mr. Cloutier be asked to give the suggestion thought? I would rather not move an amendment because I do not think I am qualified to do it in terms that would be practicable.

Mr. EMARD: Mr. Lewis, your point is that all the documentary papers or notices from the commission shall be bilingual?

Mr. LEWIS: I think, for example, you can exclude a local notice. I do not care about that.

Mr. CLOUTIER: Yes, I know.

Mr. LEWIS: But they are in two separate sheets. When you send me, as a member of parliament, a notice that there is a certain opening, I get it in English. Presumably French-speaking members get it in French.

Mr. LACHANCE: We get it in both languages.

Mr. LEWIS: Well, I get it in English only.

Mr. CLOUTIER: I can arrange for you to get it in both languages.

Mr. LEWIS: I know Mr. Cloutier is as serious about it as I am. I have had for many years a very strong feeling that a great deal of the difficulty that we have at the present time in Canada derives from the fact—and I do not make these remarks in any partisan sense—that Canadians were never prepared to accept the bilingual fact of Canada, and that we always jumped away from the proposition and found administrative technicalities for doing it one way or another. I think the time is overdue to stop doing that and recognize bilingualism of federal actions without hurting efficiency, without going overboard or doing silly things about it. I am concerned with the principle of the thing.

Mr. CLOUTIER: Your suggestion is that I consider an amendment to section 14. I am quite prepared to do so, but at this point I do not see what section 14 could do that is not being done now.

Mr. CHATTERTON: Are the advertisements that emanate from your office in Ottawa always notices pertaining to an open competition across the country?

Mr. CLOUTIER: No, they could be limited to the Ottawa area.

Mr. CHATTERTON: I see.

Mr. CLOUTIER: Notices emanating from Victoria would be applicable to the Victoria area.

Mr. CHATTERTON: Do you sometimes issue a notice which is applicable only to British Columbia?

Mr. CLOUTIER: We would not do that from Ottawa, we would do that from British Columbia.

Mr. CHATTERTON: If, for instance, Mr. Lewis' proposal were incorporated, only those advertisements that apply nationally must be in both languages.

Mr. CLOUTIER: We are doing more than that now.

Mr. CHATTERTON: No, but in those cases it must be.

Mr. CLOUTIER: That is right. That is being done now in every case.

Mr. KNOWLES: The law has not changed it.

Mr. CLOUTIER: Even if the laws did require just that, we would still be doing more.

Mr. LEWIS: I want to see the law recognizing the fact.

Mr. BELL (*Carleton*): This is an exercise in futility, then, as they are going now. This gives all the right to do it, and it is going much beyond what my friend Mr. Lewis proposes.

Senator DESCHATELETS: We are dealing here with a principle, and if we are in favour of the important principle embodied in it I do not see why we should not get this into the act. We have done this earlier, because I think when Mr. Knowles suggested that the word "sex" be added we said that it has already been done. There are no differences at the commission on the sex. But he insisted on having this in the act, and I think we should do it.

Mr. LEWIS: One way you can do it is in the opposite way from which it is done here. You can drop the section which will say, "Notices shall be in both languages except on occasions when, in the commission's opinion..." I know that you say you now do it, and I am sure you do, but the law would recognize that the general principle is a bilingual notice and that the unilingual notice is an exception which the commission is given authority to make.

Mr. CLOUTIER: I am quite prepared to—

Mr. LEWIS: It occurred to me that is one way you can deal with it.

Mr. CHATTERTON: It could be done this way; in all advertisements which apply across the country it shall be in both languages. Would that meet the situation?

Mr. LEWIS: No, I think I would be prepared to leave it to the discretion of the commission to decide when the bilingual notice is unnecessary or perhaps even cumbersome, but lay down the general principle of bilingual notices.

Mr. CLOUTIER: This would be quite acceptable, and it would recognize the present factors in legislation.

(Translation)

Mr. ÉMARD: Mr. Lewis mentioned a bilingual announcement but not two different pages. A bilingual announcement means that the two languages would be on the same sheet. I hope that is clearly understood.

Mr. LEWIS: That is exactly what I was driving at.

Mr. LACHANCE: It would be one document and not two separate ones.

Mr. LEWIS: Exactly, yes.

(English)

Senator DESCHATELETS: Mr. Chairman, on this point again, if we agree on the principle of having one bilingual document issued by the commission, what is the difficulty in having this done across Canada? What, in fact, is the difficulty?

Mr. CLOUTIER: The difficulty now?

Senator DESCHATELETS: Now.

Mr. CLOUTIER: It is being done now. Bilingual notices are available now, so it is feasible.

Senator DESCHATELETS: Issued by the headquarters of the commission.

Mr. CLOUTIER: It is being done now.

Senator DESCHATELETS: Now, what about in other parts of Canada?

Mr. CLOUTIER: In other parts of Canada the statements of duties and the statements of vacancies are available in both languages, but in most areas of British Columbia, for instance, the French population is very, very small and in those areas, except in one or two points, only the English notices are posted. However, a French speaking citizen who wants a French notice can get one.

Senator DESCHATELETS: I know, but what are you doing right now in certain areas of Quebec? Let us take, for example, the riding of Nicolet-Yamaska. Suppose there is a job there. Now, are you advertising in both languages?

Mr. CLOUTIER: Right at the moment I do not remember the population breakdown.

Senator DESCHATELETS: Our assumption is that you are doing it in both languages.

Mr. CLOUTIER: Let me ask you this question and then I will be able to answer. If the English speaking minority in Nicolet-Yamaska is less than 10 per cent, and most jobs in Nicolet-Yamaska do not require knowledge of the English language, in that case the poster is posted only in French. In other words, deux poids, deux mesures. La même chose d'un côté ou de l'autre.

Mr. LACHANCE: Are there any instructions given to that effect by the commission in Ottawa?

Mr. CLOUTIER: Yes, there are detailed instructions that have—

Mr. LACHANCE: Yes, but since it is in the province of Quebec—we were referring a few minutes ago to British Columbia—are many from the province of Quebec office or are they from Ottawa?

Mr. CLOUTIER: From Ottawa. To all our offices, and we have offices across the country.

If I may come back, I strongly approve this principle and I hope some amendment will be possible. There must be a difference. I see a difference between a document being bilingual and having the availability of the document in English or in French.

We have been talking of posters and I do not know whether members of the committee have had an opportunity to look at the annual report of the commission for this year. Today it is a bilingual document. Under one cover you have the English version and under another the French version. The first time this was done was in the report of 1965.

Mr. LEWIS: Did you follow it up?

Mr. CLOUTIER: I assure you that we have every intention of doing so. This fall our promotional material for university graduates—and I assure you this is a considerable effort—with one exception, for reasons that are of a purely technical nature where it required two separate versions, and personally I am unhappy that we were not bright enough to conceive of a different manner, but all our other material has been bilingual. It was bilingual back to back, which is one way of doing it, but it is not as satisfactory to me personally as this other way where you have one page in English and one page in French, and you continue on this way. Again, in order to implant in our practices what to Mr. Lewis and my colleagues and myself and many other Canadians makes eminent sense, I would be quite pleased to propose to the committee some rewording of section 14, which would continue to recognize this practice in the statute.

Mr. BELL (*Carleton*): May I suggest that it may very well be that what would be written in the statute would be much less than what the practice is now, and if you put a statutory minimum in commissions are inclined to adhere to the statute and to the minimum, and the net result of this proposal might very well be to interfere with what has been up to this point a very satisfactory arrangement from which there has been no complaint made to the Committee by any of the staff associations or, to the best of my knowledge, by anyone.

Mr. CLOUTIER: Mr. Bell, I assure you that I will take your comments into consideration.

Mr. BELL (*Carleton*): I do not want to see a statutory minimum—

Mr. CLOUTIER: I can assure you I do not either.

Mr. BELL (*Carleton*): —which would change the practice and reduce the practice from what it now is.

Mr. LEWIS: I am sorry, I do not agree with Mr. Bell. I do not think that, even though the staff associations have not raised it, because they are concerned with a different situation from the point I had in mind. I am not satisfied with notices on two separate sheets and their being available in both languages. I

would like to see established in your notices the same principle that you told us you established in the report and in the booklets of promotion at the universities, and before anyone suggests that the wording you might come up with would be more restrictive, let us first see the wording. I am enough of a lawyer to be able to think of ways of doing it that would not create greater restrictions.

Senator DESCHATELETS: Before we leave this point, Mr. Chairman, I would like to ask Mr. Lewis once again what he has in mind. Is he suggesting at a certain point we have an amendment from the commission, as well as from other local offices all across the country, for a bilingual document?

Mr. LEWIS: The simple suggestion I made finally is—and I am not going to put it into words—that the section read in such a way that it would lay down the principle that notices are in both languages and leave to the commission the discretion to deviate from that principle if, in the Commission's wisdom, that is desirable or necessary for any of a hundred different reasons. I would have faith in the commission to follow a practice that would meet the general principle involved.

(Translation)

Mr. ÉMARD: I agree with Mr. Lewis, I think it is a matter of principle. It is a question of making the federal government accept itself as a bilingual agency across Canada, to show in the province of Quebec that English and French are spoken even in the most remote parts of the country, and, on the other hand to show the same thing to British Columbia and in other English speaking parts of Canada that French may be spoken. This may not seem very important but the fact that the posters be in the two languages will at least create acceptance of the two languages, and will familiarize Canadians with French and English.

I congratulate Mr. Lewis. I am very happy to see that this suggestion has been submitted by an English speaking Canadian.

(English)

Mr. WALKER: We are talking in a rather narrow confine: we are not thinking at all in terms of the word "notice" being interpreted as meaning newspaper ads and television commercials.

Mr. LEWIS: No, this is one of the exceptions I had in mind which the commission would make. If it puts an ad in a French language paper it will be in French only, and in an English language paper it will be in English only.

The JOINT CHAIRMAN (Mr. Richard): We will stand clause 14.

On clause 15—*Applications*.

Mr. CHATTERTON: Does "Applications" there refer only to the case of competition?

Clause 15 agreed to.

The JOINT CHAIRMAN (Mr. Richard):

On clause 16—*Consideration of applications*.

Mr. WALKER: Mr. Cloutier, I have a tick opposite clause 16.

Mr. CLOUTIER: Yes, it relates to clause 16(2). Concern was expressed on this by the l'Association des fonctionnaires Fédéraux d'Expression Française. The

association was afraid that as this paragraph reads it would make it possible to ignore the right of a candidate to be examined in the language of his choice.

The intent of the whole section is precisely the opposite. The intent is that there be this option, but that where the individual applies for a job in which a foreign language is a requirement for qualification that there be no confusion about the obligation of the individual to submit to a test in that foreign language. Odd as it may seem, there have been occasions and I can think of one instance that came to my attention where an English-speaking candidate was applying for a position where he would be required to draft material in French, and when the examination started he was handed a series of questions written in French so that the examiners could establish his proficiency in the French language. He told them that he wanted to write the paper in English and that he had that right under the present Civil Service Act. This is the sort of situation we were trying to avoid in the latter section of section 16(2), but to the extent that the l'Association des fonctionnaires Fédéraux d'Expression Française expressed some worry, the Commission feels that it is quite important, for the same reasons you have brought forward on section 14, Mr. Lewis, that the wording be looked at again in order to make it eminently clear that there is no erosion of the rights. Therefore, with your permission, I would like to come back at another sitting with a proposal to meet the objection.

Mr. WALKER: That is for section 16(2)?

Mr. CLOUTIER: Yes.

Mr. WALKER: Are there any other amendments on any other clauses?

Mr. CLOUTIER: No, sir.

Mr. BELL (*Carleton*): On section 16(3), are there any changes here at all in substance to the veterans' preference?

Mr. CLOUTIER: None whatever, Mr. Bell.

Mr. BELL (*Carleton*): How significant is the veterans' preference today in its actual operation?

Mr. CLOUTIER: It is used less, and less, let us say. Let me give you figures, if you will bear with me until I find them. In the calendar year of 1965, out of a total of some 21,000 appointments we had about 1900 in which the appointee was a veteran. Not in all these cases was the appointment made under the veterans' preference though. This figure has not been any higher than this in the last several years.

(*Translation*)

Mr. ÉMARD: What preference is given to the widow of a veteran, for instance?

Mr. CLOUTIER: The same thing.

Mr. ÉMARD: The same thing?

Mr. CLOUTIER: Yes, according to the act.

(*English*)

Mr. BELL (*Carleton*): Are there representations from the Canadian Legion on this?

Mr. CLOUTIER: None whatsoever.

(Translation)

Mr. LEWIS: It is not the same thing—

(English)

The widow would come second.

Mr. CLOUTIER: Oh, I am sorry, yes.

Mr. LEWIS: Is it not right that the veteran comes first and the widow of the veteran is second in line, not on the same level as the veteran?

Mr. CLOUTIER: They have a preference, yes.

Mr. LEWIS: They have a preference, yes.

Mr. CHATTERTON: Let us say that there is only one applicant who has the veterans' preference and he is qualified, but there are applicants that are better qualified. Who is number one on the list?

Mr. CLOUTIER: The veteran. This is the whole purpose of this provision.

Senator DESCHATELETS: A person who has the minimum requirements plus service as a veteran gets the job.

Mr. CLOUTIER: Yes, that is right. He has to qualified, though.

Mr. LEWIS: He has to be a qualified applicant to get the job.

Mr. CLOUTIER: Yes. Let us say you have a competition where the passing mark is 70, you have candidates up to 81 but you have one veteran who gets 71. In this case he would get the appointment. Under the terms of the present provisions of the statute, he would be offered the appointment before it could be otherwise offered to the first ranking candidate.

Clause 16, subclauses (1) and (3) agreed to.

Clause 16, subclause (2) stands.

The JOINT CHAIRMAN (Mr. Richard):

On clause 17—*Establishment of eligible lists*.

Mr. BELL (Carleton): On clause 17, Mr. Chairman, there are two matters I would like to raise, the first is that under the existing legislation there is a requirement for publication of eligible lists in the *Canada Gazette*, and that has been dropped as I see it. Secondly, there was a minimum period of one year for which an eligible list was effective under the old legislation. This is now being dropped in favour of the commission having discretion to set the period of time for which the eligible list is sustained. Perhaps Mr. Cloutier would advise why these two changes are proposed.

Mr. CLOUTIER: This is consistent with an approach that we have taken throughout the legislation, and is to permit the commission to react to changing circumstances. We felt that it should be left to the administrative good sense of the commissioners to determine what the life of lists should be. Indeed, in some instances the minimum period for some lists should be more than one year, depending on the type of individuals that we are trying to recruit. I can think of—

Mr. BELL (*Carleton*): There is power now under the present act to extend it beyond the one year.

Mr. CLOUTIER: That is right. On the other hand, there is considerable administrative difficulty created where we have lists that, by the terms of the present statutes, do extend for a full year but because individuals are still on the list and are not taken off the list simply because they refuse appointments, they have to be left on for the full year. Every time a new vacancy comes in you have to go back to the same thing. So to facilitate the administrative arrangements we are proposing such lists—I am thinking of some of the manipulative trades where individuals go and come on the market—at regular intervals, and it makes administrative sense to do it this way.

Mr. BELL (*Carleton*): What about publication in the *Canada Gazette*?

Mr. CLOUTIER: We find that that serves very little practical purpose. It is an administrative chore on the part of the commission which we feel might be done away with with no loss in efficiency and no loss of information because these lists will be available in the commission.

The other problem is that although this sort of provision made lots of good sense in years past when so much was done in Ottawa, now lists are prepared in sixteen or eighteen field offices across the country, and they have to be co-ordinated here and then in the *Canada Gazette*. Under the new system not only would lists be prepared by the commission and its regional offices but they would be prepared in various departmental offices across the country, and it would be an administrative nightmare to ensure that every single thing got published in the *Canada Gazette*. We feel that as long as a thing is available for inspection by any citizen who wants to see it, the intent is preserved.

Mr. BELL (*Carleton*): I am prepared to agree with Mr. Cloutier as to the futility of publication in the *Canada Gazette* but I am rather inclined to the view that some place publicly these lists should be available and not just tucked away in a file in the commission office. I think they should be posted or publicly available for inspection.

Mr. CLOUTIER: They are available to the public in the commission offices.

Mr. CHATTERTON: Is there any requirement that all applicants for a competition be advised of the outcome?

Mr. CLOUTIER: Oh, yes, automatically.

Mr. CHATTERTON: But is there a requirement in this bill?

Mr. CLOUTIER: I would imagine that there would be but now that you mention it, I am not sure.

Mr. BELL (*Carleton*): Would it be feasible to give to each candidate a copy of the eligible list?

Mr. CLOUTIER: Mr. Bell, in some instances it would be—

Mr. BELL (*Carleton*): Undesirable?

Mr. CLOUTIER: —a waste of money. We have list of classes. Let me give you an example: The Income Tax department every year hires hundreds of key punch operators. You would have to print and publish not only for the successful but also the unsuccessful candidates, and this would really be a nightmare.

(Translation)

Mr. ÉMARD: Mr. Chairman, I think the eligibility lists should be available to members of Parliament when we need them. Not just to look at them, because if I wanted an eligibility list in Montreal, I am not going to make a special trip to Montreal to go and see it there. I can tell you I have never been able to get the list of eligible candidates since I have been in Ottawa, over the past three years.

Mr. CLOUTIER: A list of successful candidates?

Mr. ÉMARD: I have never been able to get it.

Mr. CLOUTIER: It appears now in the "Gazette."

Mr. ÉMARD: Yes, but it is so late when it appears in the "Gazette" that the list is just about useless. It takes so much time for the list to appear in the "Gazette" that in many cases, you are no longer interested by the time it does appear.

(English)

Mr. WALKER: Mr. Chairman, I would like to ask Mr. Cloutier this question. If I write the commission, as a member of parliament, and ask for the eligible list would I receive a copy?

Mr. CLOUTIER: I am sure you would, Mr. Walker.

Mr. CHATTERTON: When you advise the applicant of the outcome do you advise him also of his position on the eligible list as well, if there is one.

Mr. CLOUTIER: That is correct.

Mr. CHATTERTON: Is the first person on the list necessarily appointed?

Mr. CLOUTIER: He is offered the position first.

Mr. CHATTERTON: In other words, if he accepts—

Mr. CLOUTIER: That is correct.

Mr. CHATTERTON: —he gets it?

Mr. CLOUTIER: Oh, yes, this is the whole purpose. He may say this: "For certain reasons I would prefer to retain my position on the list, but I decline appointment this week. I would be interested in a month and a half from now."

Mr. CHATTERTON: Was there a provision in the old act whereby the department could refuse the first person?

Mr. CLOUTIER: No, not at all. This is the essence of the whole operation.

Clauses 17 to 20 inclusive agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 21—*Appeals*.

Mr. BELL (*Carleton*): Shall we adjourn for lunch?

Mr. LEWIS: I will not be here this afternoon or evening if the Committee meets. Mr. Chairman, I have two suggestions to make, if I may. The first one is that I would like to see at the bottom of Clause 21 some provision—I can write it out and move it, but I would much rather not move it because you want to consult law officers—which clearly spells out a requirement which I understand is now in practice. What I am about to say is not a criticism of the way the commission functions but I would like to see a subsection which says something

like the following: That every person appealing may at his option be represented by his bargaining agent or by counsel.

Mr. CLOUTIER: Well this is a point—

Mr. BELL (*Carleton*): Any representative.

Mr. LEWIS: Yes, may be represented by his bargaining agent or any other representative. I know that this is now the practice—The civil service associations have told me that in most cases they are there—but I think it should be in the law.

Mr. CLOUTIER: Indeed it is. It is statutory now and the only reason it was not put in the bill is that we were advised that this is guaranteed by the Bill of Rights. Since the associations have made the point and the commission agrees with the position, this was the amendment that we had in mind in relation to this as well as to Clause 31. This could be done very simply. Instead of saying the individual and the deputy head are given an opportunity to be heard we could say the individual, the deputy head or their representatives, which would leave it quite blank.

Mr. LEWIS: I would be satisfied with any wording.

Now, the second, I am sure, is a great deal more controversial, and it affects the establishment of the separate public service appeal board. I drafted something which I think, Mr. Chairman, meets the main objection of Mr. Heeney and the Civil Service Commission, and the objection raised by Mr. Cloutier earlier, that the commission is given the job of establishing the merit system and making the choice, and you cannot have someone else above them making the choice. That objection has a great deal of validity but I still urge—as I did the other day and as other members did—that there is extreme value in having the commission's decision under clause 21 subject to review by a body that is not as directly concerned with the appointments as the commission itself is—even when the appointment is made by someone delegated it is still the commission which, in the eyes of the employee and in my eyes, if I may be quite frank, is the body which is responsible for the appointment. None of us readily changes his view once a decision has been made, after careful consideration, because I assume always that the commission would give everything careful consideration. I think you could set up a separate appeal board of three on the same basis as the commission itself or a part of the commission—I do not care—and I suggest to you that it is possible to overcome the difficulty which you raised, Mr. Cloutier, which, as I have said has validity, by this kind of provision: giving the appeal board the power to confirm the decision of the commission, in which case it is final; and in the case where the appeal board is not satisfied with your decision then my suggestion is—and this is just for consideration by the Committee—not that the appeal board then make the decision, which would come up against the difficulty which you raised, but that the appeal board then have power, if it disagrees with the commission, to refer the case back to the commission for further inquiry and reconsideration, and the commission will then make a decision which will be final. Now, this is really not very new. The reason the thought occurred to me is that there are processes under the law where you can go to court in certain cases on a *Certiorari* or some basis like that where the court may not have and does not have the jurisdiction to substitute its judgment for the judgment of the body for which you go to court—appeal is

the wrong word; that is why I do not use it—but it does have the authority to say to the lower tribunal: “In my opinion, you have failed to give consideration to this factor and to that factor and, on the whole, I think you were wrong. Would you please take another look at it and consider the factors which you failed to consider.” Now, the suggestion made still leaves the decision in the hands of the commission but it makes your first appeal decision subject to review, with the appellant able to make his case to people who were not responsible for the appointment either directly or by one or two removed and it gives him an opportunity to state his case to a third body.

Mr. CLOUTIER: Could I outline as briefly as I can, Mr. Lewis, the way we operate now in the field of appeals. I think we are not very far apart. We have in the commission an appeal division which has a total of 15 people, full time, and which uses part time resources across the country to the extent of about seven man years. Now, this appeal division is totally and organizationally separate from the rest of the operations of the commission. The officers of this appeals division are the officers who constitute the appeals board, so that in some respects they are now the sort of intermediate appeal board that I think you are referring to. Now I mentioned that all three members of the appeal board in Ottawa are always full time commission appeal officers and do only that. In Montreal and Toronto—here it is a question of workload throughout the country—we have one full time appeals officer and he chairs appeal boards that operate in those areas. He obtains, as the other two members of these boards, either a full time commission officer or a retired civil servant who is brought in on a part time basis to act as appeals officer. These are the appeal boards that actually conduct the hearings at which the employee appears with his representative and management appears with its representative. The appeal boards make in effect, their decisions.

Mr. LEWIS: What do you mean by “make in effect, their decisions”?

Mr. CLOUTIER: Well, arrive at a decision, let me put it that way.

Mr. LEWIS: Well is their decision, the decision?

Mr. CLOUTIER: The decision of the appeal board, right.

Mr. LEWIS: And is that the final word?

Mr. CLOUTIER: I am coming to it now. Before going any further I wanted to quote a few statistics. In 1965 there were 800 appeals on competitions and this represents about 8 to 9 per cent. Of these 810 appeals in 1965—it was 810—there were 40 appeals arising from interdepartmental competitions. That means 770 related to departmental competitions, competitions conducted by departmental officers under delegated authority. In this instance the commission officers were not only nor personally involved in the competition process but they were, in effect, as well as in fact—I am being careful now—separate from the organization in which the competition was concerned. So they were a third party in every respect. Their decision, where it is confirming the action taken in the original competition, is final. If they reverse the original recommendation it comes up to the commission for review. Indeed, on occasion we have a hung jury; we have a minority or a majority report, and these cases come up to the commission for go back to the appeals branch and says, get us more information on that and review, also. At that point the commission does, and has done on many occasions,

more information on that. So in effect, we are operating—as the commission now, my two colleagues and myself—as a board of review of our own appeals division. I can think of only two occasions where the staff associations prevailed on the commission to reverse a decision that it had taken, in the light of whatever information it had been able to obtain, and it reversed an earlier decision on the basis of new information that the staff association was capable of presenting to the commission. So I think, sir, that if I understood your comments correctly we are now operating pretty much in the manner you are suggesting.

Mr. LEWIS: Expect Mr. Cloutier—some of the associations raised this point, I cannot remember which, but I think the Professional Institute did—that so far as the law is concerned the appeal is to the commission—that is what this section says—and so far as I, an employee of the government, am concerned I see that section 10 tells me that my appointment is made on a certain basis determined by the commission and made by the commission, and section 21 says that I appeal any grievance to the same commission. I respectfully suggest to you again that the principle is important. I am not throwing any aspersions on the appeal procedure, I have had no experience with it and for all I know it has worked well. But, I do also know that the staff associations feel uneasy about it. I do not want to say that all of them do because I cannot remember. I would feel uneasy about it if I were in their place. Therefore, it seems to me if, in fact, you are functioning partly in that way—because it is not wholly in that way—the fact is the final review in many cases would still be the commission itself rather than some portion of the commission. I am not persuaded that the objection is valid if something like what I suggest is done, namely, that you do not give the appeals board the right to reverse your decision any more than you now give your appeals officer the right to reverse without coming to the commission, and the appeal board then merely refers it back to you to look at it. The actual procedure that we discern—and again if there is any validity in the principle there may be better ways of doing it—is that I as an employee would appeal the commission's decision to the appeals board and at that point the commission and I would appear before the appeals board. I would be there to hear your reasons for having taken a certain step and your defending them. But, on the final decision, if the appeals board feels you have done wrong, that you have reached the wrong conclusion, then if they do not make the decision that you should have made, in my suggestion, they refer it back to you to take another look. Now I think that would establish a principle of appeal which was divorced from the body that makes the appointment in law.

Mr. CLOUTIER: I would like to submit, Mr. Lewis, that if the body that makes the appointment were the employer then I would agree with you. But, the body that makes the appointment is an independent commission, and if I understand your proposal correctly you are saying let us have another independent body to make sure the first independent body is really on its toes.

Mr. LEWIS: That is one way of putting it.

Mr. CLOUTIER: I think so, yes.

Mr. LEWIS: If I were a member of the commission I might feel that way too, but I am not sure that is the right way.

Mr. CLOUTIER: I would like to submit that employees do not look upon the commission as their employer but look upon the departments as their employer.

Mr. LEWIS: This is where, Mr. Cloutier, in my little experience with Civil Servants—Mr. Bell, Mr. Knowles and others have had much more, and I am speaking of the parliamentarians—I am not sure you are right. I am not sure that you are not under some illusion about that. When you make the appointment then the person who is appointed considers you responsible for the appointment. He may realize that he gets the cheque from the government come pay day but the initial hiring is an act for which you are responsible, and he holds you responsible for it. And if he has a grievance against what is done and he does not feel his grievance is being properly dealt with if he goes back to the same people who hire him, and that is his only recourse. That, to me, is a very simple fact that no amount of illusion can erase. I do not think it is in anyway a reflection on the independence of the commission to suggest that you consider this kind of thing. If, for example, you want to say in the law that the commission shall set up an appeals board from among its officers or members instead of a separate appeals board, I do not care. But the law would recognize a separate appeals tribunal. I do not care if it is part of the commission, but it would recognize a separate appeals tribunal to which to go.

Mr. CLOUTIER: Again, are you saying that we should give a statutory base to our practices?

Mr. LEWIS: Maybe that will do it, but I would like to see the words. I do not know how Mr. Bell or others feel about this, but if you think that is the best way of doing it I would like to see it.

Senator MACKENZIE: Could I ask Mr. Lewis, in respect of his proposal, what the feeling of the aggrieved person would be if the commission rejected the views of the appeal board. This is relevant.

Mr. LEWIS: I do not imagine he would be very happy, but I think he would be less—

Senator MACKENZIE: Does this not place the commission in the position, which it may, of losing its independence and being, in a sense, subordinate to the appeal board? I am not saying your proposal is not right and wise under certain circumstances, but I am just raising this problem.

Mr. LEWIS: Of course, it has that difficulty if you refer the thing back to the commission, but I should imagine that if the appeal board is, in the same way the commission is, responsible and careful it will not readily reverse a commission decision without very good grounds and therefore I would say that in practice the likelihood is that the commission will look at the grounds that the appeal board has found.

Mr. BELL (*Carleton*): As expressed in the old cliché, it is not merely enough that justice be done but that it appear to be done. I share the view that Mr. Lewis has expressed, that some type of statutory base, which gives an appearance of total independence in the appeal, is desirable to bring confidence to appellants. This is why I introduced earlier in the session private bill C-63, to set up a completely separate appeals panel. I am not wedded to the views expressed in there but I have not heard anything from Mr. Cloutier or from any of the considerable number of other people with whom I have discussed the matter, which does not lead me to the conclusion that some separate appellate

jurisdiction is necessary to get away from the appearance of going back to the people who took the initial act.

Mr. LEWIS: Have you any idea, Mr. Cloutier, for example, how many public servants did not bother to appeal, because some of them have come to me saying, "What is the sense of my appealing; I am going back to the same people".

Mr. BELL (*Carleton*): That is a very important fact; I have heard that very often.

Mr. LEWIS: And it is a very natural result.

Mr. CLOUTIER: But he is not.

The JOINT CHAIRMAN (*Mr. Richard*): Order. It is 12.45 p.m. and we should set the time of our next meeting. Will it be four o'clock or eight o'clock tonight?

Mr. CHATTERTON: Mr. Chairman, I do not mind sitting while the house is sitting, but some of us are required to be in the House.

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed to sit at eight o'clock?

Some hon. MEMBERS: Agreed.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. To begin with, to refresh our memories, I will ask Mr. Cloutier to explain again what he had in mind concerning appeal procedures.

Mr. CLOUTIER: Thank you very much, Mr. Chairman. I wonder if it might not be useful to the members of the Committee, before going on with the discussion on appeals where we left off this morning, if I were to explain, or outline very briefly, what it is all about in very practical terms, what procedures are involved, and what kinds of competitions give rise to appeals.

First of all, it should be borne in mind that the appeals happen out of closed competitions. Closed competitions are those competitions in which candidates may come only from within the public service. In other words, these are promotional competitions. There are two kinds of promotional competitions, one of which is a promotional competition limited to employees of the same department in which the vacancy exists, and by a large measure this is the most frequent type of competition. In 1965, for example, there were 9,353 of these competitions.

Perhaps one word on the manner in which these competitions are processed might be helpful again. These competitions are conducted under delegated authority from the Commission. That means that the selection boards, usually made up of three or more individuals, are made up of departmental officers. In other words, in no instance does an officer of the Civil Service Commission participate in, or is a member of, the promotional competition board.

Mr. BELL (*Carleton*): No officer?

Mr. CLOUTIER: No officer of the Commission. This is done under the terms of the present Civil Service Act, under "delegated authority" and, as I said, this represents about 95 per cent of the promotional competitions held.

The other five per cent are interdepartmental competitions; in other words, competitions in which officers or employees from more than one department may become candidates and these also are closed competitions inasmuch as only members of the public service are eligible. In 1965, these numbered 480, or something less than five per cent of the total.

Now, the point I am trying to make is that any appeals resulting from this 95 per cent of competitions are heard, as I indicated this morning, by officers of the Civil Service Commission. These officers not only did not have anything to do with the conduct of the original competition and the decision that led to the appointment or the proposed appointment which might now be under appeal, but they are officers of a different organization—not only a different organization—but officer employees of the independent commission whose sole *raison d'être* is the impartial administration of the merit principle.

Now, let us zero down a little more and look at the number of appeals that have taken place in the last year. If members are interested I have statistics here for the last three years. I think the last year is just as indicative as the last three. There were 9,353 departmental competitions in 1965, administered by departments, which gave rise to 770 appeals. That means that in 770 instances these appeals were heard by officers of the commission who—again I repeat for emphasis—were separate and distinct, both in terms of the individuals and in terms of the organization to which they belonged, from those who did conduct the appeal itself.

In 1965, there were 40 appeals arising from the 480 interdepartmental competitions which were held under the aegis of the Commission. This means that the selection board was composed of a commission officer chairman and, I would say that in about 99 per cent of the cases, two departmental officers, so that in proportions of 95 per cent to five per cent the Commission, when it does hear an appeal, is truly and in fact an independent party to the competition which gave rise to the appeal.

As I indicated this morning—and I am repeating this in order that we can all get into the same frame of mind which we were in this morning—the appeals heard by the Commission are heard by Commission officers. The boards are made up either of full time commission officers, or of full time and part time Commission officers. In no instance in recent times have appeal boards been made up of other than Commission officers. This, I think, Mr. Chairman, completes the *mise en scène* that I had in mind.

(Translation)

Mr. ÉMARD: I am sorry but I fail to see the difference between those who grant promotions and those who hear appeals.

Mr. CLOUTIER: In the case of departmental competitions—that is in the competitions open only to employees of the department—95 per cent of these are directed by officers of the department. In other words the board does not include any representative from the Civil Service Commission. Consequently, when we have an appeal in respect of such a competition, this appeal is entertained by officers of the Civil Service Commission.

Mr. ÉMARD: That I understand.

Mr. CLOUTIER: That is an entirely different thing.

(English)

Mr. HYMMEN: Mr. Chairman, we have had a great deal of discussion about this matter, and Mr. Cloutier has given us quite a bit of information today. I believe Mr. Carson told us earlier exactly how the appeal arm of the Commission operated, and this is a matter, as I think has been pointed out before, of which very few civil service employees are aware. Now, in this clause you say, "the right of appeal to the Commission which is the hiring body", and yet there is no explanation in here regarding an appeal board. Now I know there are problems of an independent body in which case an independent commission might be subservient to that body, and I think this is an insurmountable problem but I was just wondering if some clarification here with reference to an appeal board and the composition of an appeal board would not help them solve the problem.

Mr. CLOUTIER: Well, sir, if I may be permitted to answer the two points that I think you have made. The first one, I think you said that the civil servants generally are not aware of these appeal rights. Maybe this is so, but let me put it this way. Every civil servant who chooses to become a candidate in a closed promotional competition, whether it be departmental or interdepartmental, when the results of this competition are known he is informed by individual letter of the results of that competition. If he is the successful candidate, he is informed that he is the successful candidate but he is also informed that the provisions of appeals extend to such a date and therefore his appointment cannot be confirmed until it is established whether there is an appeal lodged or not.

Every unsuccessful candidate, therefore every individual who is concerned with the competition, is also informed by individual letter of the results of his participation in the competition. He is also informed of his rights under the act. In other words, he is told that if he wishes to appeal he may do so at such a place within such a time.

Now the other point that you have mentioned I think is an extension or a conclusion of the discussion that the members of the Committee had this morning. After this morning's session my colleagues and I held a post mortem and examined the discussion and so on and so forth.

Mr. BELL (*Carleton*): It was a lively one, though.

Mr. CLOUTIER: This is probably—

Mr. BELL (*Carleton*): Postgraduate?

Mr. CLOUTIER: No, this probably an "officialese" term. We feel that the point that was made by a number of members this morning and that perhaps was expressed in a most crystal clear manner by Mr. Lewis is one that might commend itself. This is one, incidentally, I would hope to have the opportunity of discussing with the law officers of Justice to see in which way it might be incorporated in the legislation. It is one that would put an obligation on the commission to constitute appeal boards, to conduct the inquiries that are provided for in the various clauses, that is 6, 21, and 31 I believe, that deal with appeals in the bill, and also might specify that the appeal board would not only conduct these inquiries but they would make a report and recommendations to the Commission thereon.

I feel that, if I absorbed the sense of the discussion this morning, this would meet the suggestions made by the members of the Committee.

Mr. BELL (*Carleton*): Mr. Chairman, I think we could very easily spend the rest of the evening on this rather controversial clause. I think it is perhaps the most controversial of the bill, and I personally am prepared to go along with what Mr. Cloutier has suggested, that perhaps we might stand it and that the law officers would come up with some suggestions.

I would like to have the opportunity if I may take a moment, to just present the amendment which I had proposed to move to this clause so that it will be a matter of record and perhaps may be of some assistance to the law officers as they consider the matter. This is the amendment which I had drafted some time ago which conforms with Bill No. C-63 which I had introduced earlier.

The amendment would be that clause 21 be amended by renumbering the existing clause as subclause 1 and by striking out therein all the words after the word "commission" where such word appears the second time in line 24, and substituting therefor "may (c) allow the appeal or (d) refer the appeal to a board consisting of not fewer than three members nominated by the Commission from members of the appeal panel hereinafter provided for", and that clause 21 be further amended by adding the following subclauses.

(2) the Governor in Council shall establish and appoint an appeal panel of not fewer than 12 and not more than 24 persons who are qualified to act as members of the appeal boards;

(3) vacancies in the appeal panel shall be filled from time to time as they occur;

(4) persons appointed to the appeal panel shall not be present members of the public service or associated in any way therewith but shall be appointed on the basis of knowledge of personnel management, impartiality or judicial aptitude;

(5) if an appellant objects to any member of the board nominated by the Commission to hear the appeal he may apply on summary application to the President of the Exchequer Court of Canada for an order removing such person from the board, and substituting for him any other person of the appeal panel chosen by the President of the Exchequer Court of Canada, and the decision of the said President shall be final and binding upon all parties;

(6) The Board, after conducting an inquiry or hearing at which the person appealing and the deputy head concerned shall be given full opportunity of being heard either in person or through any representative shall:

(a) if the appointment has been made confirm such appointment or refer the matter back to the commission for further consideration or;

(b) if the appointment has not been made approve the making of such appointment by the Commission or refer the matter back to the Commission for further consideration;

(7) In any case where a board refers the matter back to the Commission for further consideration the Commission shall proceed *de novo* to hold a new competition and the result thereof shall be subject to appeal in the manner hereinbefore provided.

Mr. Chairman, this is a view that I have held for some time that is expressed in this. I certainly do not want to advance it tonight in argument. My view is

that we have had all points of view expressed here today, and I would like to suggest that we could make a lot of progress in relation to the other clauses of the bill if we were to say that this is one of the most controversial and perhaps have the law officers consider these various matters. I would propose, if there was something that was advanced that was not satisfactory to move an amendment in this form.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, Mr. Bell, I quite agree that your amendment would be very useful and that we should give the parties concerned an opportunity to study it. I was thinking that some of the other members may want to express some opinion for some time this evening.

Mr. KNOWLES: Sir, if that is the case I have certainly no objection. but I thought there was a disposition to let it stand in view of what Mr. Cloutier has said. All I wanted to say was that I would undertake to get a copy of Mr. Lewis' proposed amendment, not necessarily for putting it on the record at this moment, but for giving it to Mr. Cloutier so that he will have it and Mr. Bell's draft and his own ideas for discussion with the law officers. I think I see a vein running through the three of them, and that we are making headway as a result of this discussion. Mr. Lewis said this morning that he was not wedded to his particular wording but I think we have made headway. Furthermore, we could let it stand.

The JOINT CHAIRMAN (*Mr. Richard*): I think that the members of the Committee would also agree that if any other members have a suggestion to make as to any such amendment they could let the Chairman or the secretary of the Committee have it so that it might be transmitted to the witness in time for the next meeting.

Mr. KNOWLES: The thing we all seem to be trying to get to is an appeal machinery that has the genuine appearance of independence, not just in the eyes of the Commission but in the eyes of the employees.

Mr. WALKER: Mr. Chairman, I am quite in agreement with the procedure suggested. I think it should be stood even before the moving of Mr. Bell's amendment. I did not get the opportunity this morning to express some views in the general discussion.

I wonder if I could just say this, and I am not speaking to your proposed amendment Mr. Bell; it was prior to that. This is rather basic to the discussion that took place. It is simply this, and I am speaking personally, if I cannot believe in the independence of the new public service commission then this whole legislation becomes meaningless because in my view, and this ties in with other views that have been put forward, the public service commission are the custodians, if you will, of the merit principle. I do not think there has been much difference of opinion on the advisability of having the commission as a custodian of the merit principle. I do not see much difference of opinion about the merit principle as opposed to the principle of seniority.

Along this same line, whatever appeal board is set up, I would want to be very sure in the first place that that appeal board was acquainted with the merit principle. I would not want the handling of appeals to be given to a board that had almost binding authority over the public service commission. I would not want the decision to be in the hands of a board that was completely unaware of the purpose of the independent commission, and that purpose being to preserve the integrity of the merit principle in the public service.

Again, and my own view is that an outside board would be much less acquainted with the merit philosophy that certainly runs right through the public service commission. I think, Mr. Chairman, this presents the public service commission really with a public relations job and if some sort of an amendment can be worked out I believe it would be acceptable to the public servants, if they could really see it spelled out, almost a declaration of independence, which I believe is a fact right now, but a declaration of independence on the part of the public service commission.

This is the problem that faces Mr. Cloutier and his associates, as Mr. Bell said earlier, to show not that justice is being done in fact at present but that justice appears to be done. I believe this is happening now, but I believe, in whatever wording you may come up with, that it may be necessary to spell out this declaration of independence by some means or other. I believe it is more a public relations job rather than a job of actual fact. Believe me, I can testify to the independence of the Civil Service Commission, but I think that the spelling out of this would reassure the employees that this is the way the Commission feels about their role. I do not suppose I have made myself clear at all but that is the way I feel.

Mr. BELL (*Carleton*): I think you have made it clear that there is not really a great deal of difference between any of us at all. We want to get the full appearance and fact of impartiality.

Mr. WALKER: I believe in facts.

Mr. BELL (*Carleton*): And if you can achieve that I am sure we will not have any problems.

Mr. KNOWLES: We have the facts but we want the appearance.

An hon. MEMBER: This is the point I would make.

(*Translation*)

Senator DESCHATELETS: Just for information, Mr. Cloutier. You said there were 770 appeals last year from decisions of the Commission?

Mr. CLOUTIER: Not from the decisions of the Commission. The 770 appeals to which I referred were appeals in respect to 9,353 departmental competitions, that is competitions which were administered by officers of the departments.

Senator DESCHATELETS: Out of these 770 appeals, how many candidates obtained satisfaction?

Mr. CLOUTIER: I can provide that information—

Senator DESCHATELETS: I would like an approximate figure.

Mr. CLOUTIER: I think I can give you an exact figure rather than a percentage. I am sorry, I think I have subtracted here and subtractions are a little difficult—the figure for 1965 is 151.

Senator DESCHATELETS: 151?

Mr. CLOUTIER: Yes, in 151 cases the appellant was upheld. In 181 cases, the appellant withdrew his appeal and in the other cases the employee was not upheld.

Mr. ÉMARD: I would have a comment to make on that. What frightens me a little now is that human nature being what it is it might be a good thing for the

appeal courts, to feel that their decisions can be appealed. We have often noticed—and I am referring to one province in particular which I know better than the others—that when decisions are taken without any appeal, the members have a tendency to acquire a rather dictatorial attitude. You can always appeal at the present time from a lower court to a higher court from those decisions. I believe that should be taken into consideration.

The members apparently have to be appointed for seven or ten years.

Mr. CLOUTIER: Ten years.

Mr. ÉMARD: Well, after ten years there might be an improvement, or the reverse might be true, they might work properly at the beginning, but after a while they might feel so convinced of their rights, that they will proceed along dictatorial lines, as I said.

(English)

The JOINT CHAIRMAN (Mr. Richard): Shall the clause stand?

Mr. WALKER: Yes, stand.

Clause stands.

The JOINT CHAIRMAN (Mr. Richard): Is clause 22 carried on?

Clause 22—*Effective date of appointment.*

Mr. BELL (Carleton): Before the clause carries, Mr. Cloutier, would you mind indicating why this clause is necessary at all. It would seem to me that it was self-evident and it bothers me in the *non obstante* clause at the beginning. Perhaps I am putting my legal cap on now, but the moment I see a clause "notwithstanding any other act" I am struck with terror and realize that I have got to go through every act that has ever been passed by the parliament of Canada in order to know what is meant by this clause. Surely we could avoid putting poor lawyers, let alone ordinary citizens, through a situation where they have to know what is meant by "notwithstanding any other act".

Mr. CLOUTIER: Of course, I think that to have a thoroughly satisfactory answer you would have to ask this of the law officers. This, of course, is a standard legal term.

Mr. BELL (Carleton): Oh, oh.

Mr. CLOUTIER: The only explanation that I can give you of the reason why this section is there is to guarantee certain rights that individual public servants acquire by the very fact that they are public servants.

For instance, long service leave takes effect on the basis of the length of service and there has to be a legal determination of when that service began. Indeed, the substance of this section as it now appears in the regulations made under the authority of the Civil Service Act and the reason why it appears in the regulations is precisely that it is required for the administration of certain benefits of public servants. In short, it is to allow retroactivity of benefits.

Mr. BELL (Carleton): With great respect, Mr. Cloutier, you do not convince me in relation to that. If it has been in the regulations before, I think you had better see whether you have power in the regulations to do it again. You put a

clause in here "notwithstanding any other act". I would have thought this was entirely obvious. I am afraid, on the basis of your explanation, I have to vote against this clause.

Senator DESCHATELETS: This would be reviewed again by the law officers.

Mr. WALKER: I think: Mr. Chairman, they must have had a pretty good look at this. I think it was for the protection apparently of the public servants that it is in this act. Are you fearful, Mr. Bell, that some other act that has an almost identical clause would wipe out this one?

Mr. BELL (*Carleton*): Well, we have been getting along since 1918 without this in the act and we suddenly come up and decide to put it in the act and we put in a *non obstante* clause which I think is the most objectionable type of legislation. You say "notwithstanding any other act," how can any civil servant or any person know what that means. You have to review everything that has been legislated since confederation in order to understand that clause.

Mr. WALKER: I presume, Mr. Chairman, it is because he has been hired under this act and this is the overriding act in the interest of the employees.

Mr. FAIRWEATHER: If it is the overriding act then, of course, there is no need for the four words.

Mr. CHATWOOD: Mr. Chairman, I think probably there might be another act that said certain rights become affective after their probation period or something like this. We do have certain cases of probation period where they are on trial. Since this says "notwithstanding any other act" they would hardly have to search through the other acts to refer to them.

Mr. WALKER: Mr. Chairman, I do not know the explanation for this, but would Mr. Bell's point be met if the words "notwithstanding any other act" were left out. I do not know whether this is allowable or not. I do not know if it is just a catch-all phrase in case of some act that nobody knows anything about that may be brought up later.

Mr. CLOUTIER: As a poor layman, if I look at the present Civil Service Act which allows under Section 68 the Governor in Council, on the recommendation of the commission, to make regulations and so on, and so forth, if I look at subsection (1) it says "prescribing the effective date of an appointment". This is the thing that was attempted to preserve in this area.

Mr. BELL (*Carleton*): That is precisely my point. Under the regulations which were made in that, it could not be, "notwithstanding any other act". It had to be in conformity with and pursuant to the authority of this act.

Mr. CLOUTIER: This is why I say as a layman I would agree with you. Could I check this point with the law officers of the Department of Justice and see whether these words are really essential?

Mr. WALKER: The first four words.

Mr. CLOUTIER: Yes.

Mr. BELL (*Carleton*): I would be satisfied.

The JOINT CHAIRMAN (*Mr. Richard*): Stand clause 22? Agreed?

Clause 22 stands.

Clause 23—*Oath of office and allegiance.*

Mr. BELL (*Carleton*): Mr. Chairman, may I ask on clause 23 what the present arrangements are to have the taking of the oath by civil servants under reasonably dignified circumstances?

Mr. CLOUTIER: These oaths are usually taken, where the appointment is to an office where there is a personnel officer, before the chief personnel officer of the region. Where the appointment is not in such a city it is usually taken before the senior officer of the office.

Mr. BELL (*Carleton*): What is done now in Ottawa. At one time it was all done before the Clerk of the Privy Council?

Mr. CLOUTIER: Or an officer of the Clerk. It is now done in Ottawa, I believe, before a senior officer of the personnel division of the department.

Mr. BELL (*Carleton*): Is an attempt made to see that the taking of the oath is in such circumstances of dignity that the person appreciates the advantage of it?

Mr. CLOUTIER: From my experience, every effort is made to achieve this.

Mr. BELL (*Carleton*): Perhaps, Mr. Chairman, I can deflect. I have very deliberate reasons for saying this. I have only taken this oath once and it was 32 years ago as a civil servant. I went before the then Clerk of the Privy Council who had been private secretary to Sir Wilfrid Laurier and I expected it to be an event of some importance. That very distinguished gentleman did not even bother to look up from his desk and he dismissed this young man in such a way that it has been seared into my soul ever since. I just want to say tonight that I have the most vivid recollection of the rudeness with which I was treated on the only occasion that I took a civil service oath, and I hope that perhaps by mentioning it 32 years later I may do a service by indicating that whoever takes the oath for young people will take it in such a way that they will understand they are doing something that is very useful.

Clause agreed to.

Clauses 24 and 25 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 26—*Resignation.*

Mr. BELL (*Carleton*): Mr. Cloutier was going to say something on clause 26.

Mr. CLOUTIER: The Public Service Alliance requested a little more precision in this clause to specify that a deputy head must accept a resignation of an employee and that the acceptance must be in writing. Here again, if I may be allowed, I would like to suggest at a later date an amendment to accomplish this.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 26 stands? Agreed?

Some hon. MEMBERS: Agreed.

Clause 26 stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 27—*Abandonment.*

Mr. CLOUTIER: Here again, the alliance argued that there were no provisions for special circumstances in case of abandonment. I think it cited in its brief or in discussion the case of a civil servant who had an

accident during leave and was unconscious for several weeks in such circumstances that the deputy head, was not appraised of the fact that the employee was away for reasons beyond his control. It was requested that such circumstances be provided for in the act so that when the individual does recover his faculties he can be reintegrated in his department. My colleagues and I believe that the proposal makes eminent sense and once more, with your permission, I would be pleased to bring along an amendment that would accomplish this?

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed to stand clause 27?

Clause 27 stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 28—*Probationary period*.

(*Translation*)

Mr. ÉMARD: Could you tell if any time limit is specified here in the first paragraph of this clause?

Mr. CLOUTIER: At this time, Mr. Émard, we speak of a period of one year. The Civil Service Act, in its present form, does not apply to prevailing rates employees. We have every reason to believe that the period of one year is too long to determine if a carpenter, a plumber, any tradesman, is really master of his trade. Why then should we extend that rating period over a whole year? On the other hand, there are other categories of employees for whom a period of one year might not be adequate. As I attempted to indicate to the members of the Committee last Tuesday, when we were speaking of the classification system, the proposed system of classification would make it possible for us to direct our attention to various groups of employees, in order that they all be dealt with according to the peculiarities of their trade or occupation. This is another instance of that. To begin with, we will proceed by regulation. The period will be one year, as we state here, but as we refine our personnel management methods, in respect of such and such a category of employees we have every intention of adapting these methods to the peculiarities of each category.

Mr. ÉMARD: Will this period be subject to collective agreements or do you intend putting it under job classification?

Mr. CLOUTIER: This is not a matter for job classification. If this subject matter comes under this present act, it will not be dealt with by collective agreement.

This being said, I would add immediately that the Commission, by establishing these directives over the years has been consulting staff associations to an ever increasing degree before establishing a new policy it has attempted to obtain the views of the employees representatives.

Mr. ÉMARD: I am not entirely reassured. You seem to intend restricting collective agreements. I know full well that the probation period in industry is a matter for negotiation. I think that employees should enjoy the same opportunity in this instance, they should be able to negotiate this probationary period. I undersand, of course, that in the case of the prevailing rate employees, the probationary period may be limited to three or six months. However, when we are dealing with scientists or with other classes, it might take a year or more

before the final determination is made. Instead of including this under job classification, or under any other such other heading, it should be a matter for collective bargaining.

Mr. CLOUTIER: This is a fundamental principle of the merit system: this is the very reason why we have an independent commission. If it is true that the merit system within the public service is valid and if it is true also that we should have an independent commission to administer this merit system, we should provide that commission with the responsibilities which flow from that.

The principle of merit includes the appointment and any judgment relating to the competence of the employee, since the probationary period of an employee is established in order that his mastery of his occupation may be determined. This, of necessity, comes within the merit system.

Mr. ÉMARD: I think you will find negotiations difficult!

(English)

The JOINT CHAIRMAN (Mr. Richard): Clause 28.

Mr. WALKER: May I ask one question? I certainly agree with the authority being with the commission to name the probation period. Would it destroy the principle to have an outside limit to this probation period?

Mr. CLOUTIER: You mean a maximum limit?

Mr. WALKER: In other words, how long does it take to assess?

Mr. CLOUTIER: I cannot tell you. At this point I do not think our techniques—and I do not mean only of the Civil Service; I am speaking of the techniques of personnel administration generally—are so refined that we could tell you with assurance that a prospective research scientist, for instance, can be determined, beyond reasonable doubt, to be a fully competent research scientist in a year, a year and a half, or two years; I have no idea. We are just entering into this whole realm of refinement, and indeed the purpose of this section is to permit the flexibility which is required in the—

Mr. WALKER: May I ask just one more question? Does a probationary employee enjoy all the benefits of confirmed employees?

Mr. CLOUTIER: Yes, sir.

Mr. CHATTERTON: Mr. Chairman, I can understand why we cannot always say what a probationary period should be, but why could you not say that in all cases it shall be at least six months.

Mr. CLOUTIER: Because in certain instances six months might be too long. I used a few examples of skilled trades where, indeed, three months might be sufficient. We want to be flexible, to be able to react to the requirements of the various occupations.

Mr. CHATTERTON: I understand from subsection (3) that the deputy head may at any time give notice to the employee during this probationary period. This is in effect an automatic delegated authority to the deputy head. What is the purpose behind this automatic delegation?

Mr. CLOUTIER: This is a continuation of the terms of the present act.

Mr. CHATTERTON: I know; but apart from that.

Mr. CLOUTIER: The deputy head, because the individual works in the department, is in the best position to determine whether the individual is carrying out the duties in the manner that is expected of him.

If I may be permitted, Mr. Chatterton, I should interject here that the Public Service Alliance drew to our attention and to that of the committee, for that matter, the fact the present act requires the deputy head to detail his reasons for the decision to reject an employee on probation, and we certainly agree that this should be re-introduced in the bill, and this is another of the amendments that I would like to have leave to bring to you at a later time.

Mr. CHATTERTON: That was going to be my next question, but, having answered that, there is no power of review by the commission to that decision of the deputy head, is there?

Mr. CLOUTIER: This is a new feature of this section. There is an obligation placed on the commission to place the individual in another position, presumably in another environment. If an employer has come to the decision that a given employee is not suited to his particular department there is really little point in forcing this marriage, so to speak. This bill would place an obligation—and again this is a new feature—on the commission to attempt to place the individual in another department.

Mr. CHATTERTON: There is no right of review by the commission of that decision of the deputy head?

Mr. CLOUTIER: No, sir. There is no right of review because this is not a practice which exists anywhere in the private sector or in any public service that we know of. A probation is a probation.

Mr. CHATTERTON: That brings me to the next point. There is an obligation on the part of the commission to appoint the employee to another position, but the commission does not have to. The commission may appoint to another position. It is not obligated to appoint him to another position. Is that not right? I looking at subsection (3).

Mr. CLOUTIER: But if you read the end of subclause (3) conjointly with subclause (4), and if you read this in relation to the present act I think it conveys a definite obligation on the Commission.

Mr. CHATTERTON: But what happens if the Commission does not—

Mr. CLOUTIER: If we cannot place an individual?

Mr. CHATTERTON: Yes.

Mr. CLOUTIER: Then the individual is out of a job. It is as clear as that, and we should not mistake that.

(Translation)

Mr. ÉMARD: There is something very different here. You have stated that this does not exist in industry generally, but there is something in industry which does not exist here. If an employee is transferred in industry and cannot perform in his new job, there is something else which comes into account. I have reference here to seniority. He can always use his seniority rights and he will not be discharged. In an initial probation period, of course, I understand your point of view. If you are not suited to the job, you will be fired after six months. But if

we are dealing here with an employee who has acquired seniority within an industry, he can always use his seniority to bump another employee and be transferred back to his old position if he does not suit the new position into which he has been put.

Mr. CLOUTIER: I believe that sub-paragraph 2 of clause 28 answers your question. We allow the deputy head to eliminate the probation period when we are dealing with a transfer within the service.

Mr. ÉMARD: But I do not think you have got my point. You have just answered that an employee who had come from a position after being successful in a competition and who has been transferred to another position, presumably in a higher classification, may possibly be placed. If you cannot place him however, he will be discharged. I do not know whether I have understood you clearly, but this appears to me to mean that if a fellow has been twenty-five years in a position and tries to move to a higher position to which he finds he is not suited, he might very well be discharged. What happens is that in industry at the present time, in cases such as this, the employee can use his seniority rights. Yet this is something of which you take no account here. In private industry, he can use his seniority rights to obtain his original position.

Mr. CLOUTIER: Here again, sub-paragraph 2 is designed to obviate that difficulty. In the case of a transfer within a department, it is possible for the deputy head to reduce or eliminate this probation period. In practice, what will happen is this. When promotions occur within the department, it may happen that the individual accepts the transfer or the promotion. However, the agreement is that on occasion, the deputy head may insist that a probation period be maintained. The employee who accepts the transfer accepts it on that condition. It should be clearly understood that this probationary period is designed to test the performance of the employee. That is something which cannot properly be tested by the examination of a file or by carrying out an interview, or by submitting the employee to an examination. The probationary period is the normal extension of the selection process. It is absolutely essential for the word "may" to continue to appear in sub-paragraph 4 because the reasons for which the employee is rejected could be reasons which are such as to disqualify him from any other employment.

Mr. ÉMARD: Mr. Chairman, I cannot help but notice that when employees want to retain their rights, they use all kinds of airtight formulae. For example, "notwithstanding any other act". However, when we are dealing with the rights of the employees, we leave "and may", we say management "may do this or do that". Why do we not give real rights to the employees? Why should we not consider that the employee be dealt with exactly along the same lines as the employer? Collective agreements are a two-way street. It will be very difficult to have the government accept that in a negotiation the employee is equal to the employer. He is equal at no other time. When he goes back to the factory, he certainly is not equal anymore.

Mr. CLOUTIER: When we are dealing with Bill C-181, we are speaking of the administration of the merit principle. The distinction is the following. In the private sector, the merit principle does not exist in the same way as it exists within the Public Service. This being the case, if it were assumed that the merit principle is not indispensable in the Public Service, I would share your view. I

would even go further. I would say that the Commission has no reason to exist. I would even go so far as to add that the whole matter of personnel administration should come under one office. Collective bargaining is another matter entirely. In so far as it is desirable to maintain the merit system—and that principle has been enshrined over the last fifty years—in so far, then, as it is felt desirable to maintain that system, we are led to the inevitable conclusion that the system of collective agreements which will be introduced in the Public Service will differ from that of the private sector.

Mr. ÉMARD: I entirely share your approval of the merit system. In fact, I already have made attempts to introduce it in certain collective agreements myself. However, there are always a few little difficulties which provide the employer with a somewhat superior bargaining position. I feel that when you will be called upon to bargain, you will use all kinds of little advantages of which no thought has been taken.

Mr. CLOUTIER: The Public Service Commission will never have to negotiate.

Mr. ÉMARD: We are negotiating at the present time, are we not?

(English)

Mr. CHATWOOD: I want to ask about an employee who is on probation having the same rights as any other employee. Perhaps I misunderstood you. He does not have the right to continuity of employment, does he?

Mr. CLOUTIER: No.

Mr. CHATWOOD: I am wondering if this is what we really want. When a man is offered a promotion he has to give up his right to continuity of employment.

Mr. CLOUTIER: He has not the right to that promotion.

Mr. CHATWOOD: No; but if we consider people who have a considerable amount of seniority, not the younger group who have perhaps 5 or 10 years of service and who want to go ahead—a man who has 15 years or so of seniority and is suitable for advancement is perhaps a little cautious. He would be a good man for the job, but he will not take it, because he is gambling 15 years, and at his age he would find it a little more difficult to find another job.

Mr. CLOUTIER: In principle I think that this line of argument can be developed at some length, but it is significant that this is not a problem in the public service. Where an individual is given a promotion, if he does not pan out, then every effort is made to bring him up to par. After all, the public service has to be an efficient institution; it cannot carry free-loaders. At that point a concerted effort is made to find a set of responsibilities that the man can carry efficiently and equitably.

Mr. KNOWLES: Mr. Chairman, everybody is making sense, but I still do not think that Mr. Cloutier has met Mr. Émard's point—and Mr. Chatwood has come in on it as well—with respect to the severity of the treatment that you give the employee who has been in the service for 15 years and has done an acceptable job, but cannot measure up to the requirements of a higher position. I quite accept this principle as it applies to a new employee, namely, that the probation period is part of his examination. If he does not pan out, he goes.

As I understand it, a promotion is an appointment subject to the same rules. But here you have the case of a man who has been 15 years in the service, and at two or three lower levels he has panned out. He gets a promotion, and he is on probation, but if the deputy head feels that he does not measure up to the requirements of that higher position, the penalty is that he is out in the cold completely. It seems to me that—

Mr. CLOUTIER: Not in practice, though, Mr. Knowles. In practice I do not know of any case—and I would be very much surprised if anyone in this room knew of any case—where a long-service employee was dismissed as the result of a probation period.

Mr. KNOWLES: I am sure that there are none, because I would have heard from them if there had been. Then why have it in the act? Why I join Mr. Émard in this, is that we make a provision in the case of a promoted employee different from that of the new employee. If the new employee cannot measure up to that job, he goes where he was before, which is on the outside. But surely the promoted employee who cannot measure up should only go where he was before, which is back to a lower level.

Mr. CLOUTIER: In practice we cannot guarantee him his old job because that might have been filled in the interval. In practice he is found another job at the same level.

Mr. KNOWLES: Which level?

Mr. CLOUTIER: At the level that he was at before the promotion. But if, by legislation, we were obligated to give him his old job—well, we could not do that. On many occasions it might mean that we would have to “bump off” another public servant who would have acquired that job through normal means. Therefore, in essence, what happens is that the individual is fitted into a job which he can carry.

Mr. KNOWLES: Mr. Cloutier, you build up quite a case of what would happen if this were the law, and yet you say that in practice it has not happened. Have you had to free-load some of these people because—

Mr. CLOUTIER: What I say has not happened is that individuals have not been thrown out.

Mr. KNOWLES: What have you done with them?

Mr. CLOUTIER: We have placed them in the same department, or in another department, at their previous level.

Mr. KNOWLES: You did not have to free-load them for a while because there was no place for them?

Mr. CLOUTIER: No.

Mr. BELL (*Carleton*): Do not assert that too positively.

Mr. CLOUTIER: I will not say that perhaps they are necessarily fulfilling their second job as well as they might; I will not say that; but at least they are occupying the same level that they had before.

Mr. WALKER: Mr. Chairman, Mr. Cloutier used a phrase that would be the solution to the whole problem. He used the phrase “bump off”. I suggest that it should be “bump”.

(Translation)

Mr. ÉMARD: If Mr. Cloutier accepts that decision in principle, why does he not accept it in principle under the legislation? Does he not want to put it in the legislation?

Mr. CLOUTIER: It is not a matter of not wanting it in the legislation. The point is that we were dealing with an existing piece of legislation. We intended to adapt ourselves to new needs. We felt it was necessary to introduce some changes in respect of some problems with which we have been faced in the past. The question we are discussing now has never been a problem. According to the provisions of the present act, it should not be a problem either, so that is why there is no change. However, as I said a moment ago, if we made it mandatory under the act to restore to the employee his former position, this would make for considerable difficulties. The matter could, on occasion, be solved by the individual accepting a double demotion. In fact, I remind myself of one such similar case, last spring. In that instance, the individual accepted a double demotion. This man was an Engineer 7. He was told that he could not be retained at that level, that there was no vacant position at the level Engineer 6. There was no obligation under the present Act, but we, in the Commission, looked at all the departments who employed engineers to find if there was a vacancy at the 6 level, which could accommodate our friend. We found that there was no such vacancy. The individual accepted of his own free will this vacancy at the 5 level. In legislation which deals with human matters, it is, I think, a very good thing to provide for a certain amount of flexibility.

(English)

Mr. KNOWLES: Mr. Chairman, what would be wrong with changing the "may" to "shall" in subclause 4? Suppose we accept what you have done in subclause 3, but merely be required to put such a bumped-out employee on an eligible list commensurate with the qualifications that he had before, so that the worst that would happen would be that he would have to wait until there was a job at that level?

As it now reads—although you said earlier there was an obligation on the commission—it is only permissive that the commission may put him on an eligible list, and he might get a job if one turns up. What would be wrong with changing the "may" to "shall"?

Mr. CLOUTIER: The only objection I can think of—and I think it may be valid—would be if the reasons for which the individual was being laid off were such that they would render him unfit for any employment.

Mr. KNOWLES: Mr. Chairman, somebody has made an awful mistake if a man who was a grade six is promoted on the commission's recommendation to a grade seven, and then it turns out that he is no good at all. What was he doing at grade six?

Mr. CLOUTIER: Well, things happen to individuals. There is the phenomenon of "senescence" which was brought to the attention of this Committee at an earlier stage by the chairman of the commission.

Mr. KNOWLES: Those people should be warned to stay where they are.

Mr. CLOUTIER: The answer to your question, though, Mr. Knowles, is that subclause 4 does not only deal with the oldtimer, it also deals with the new fellow.

Mr. KNOWLES: I recognize that; but that brings us right back to the point that some of us have been making, and that is, should there not be a difference in the treatment of the brand new employee on his first probation and the person who has a promotion? You are telling me that in practice there is a difference.

Mr. CLOUTIER: I think I have stated that in practice there is a difference and this is, I think, the third instance to date where the feeling of the Committee is that there should be some recognition in the statute of that practice. Would you leave it with me?

Mr. KNOWLES: Yes; and you will do your best to get the appearance to conform to the facts.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 28 stands.

Mr. CHATTERTON: It may not be as benevolent.

Mr. KNOWLES: But we have had predecessors and we can only follow in their footsteps.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 29.

Mr. CLOUTIER: Excuse me; this is clause 28 I have to worry about, is it?

Mr. WALKER: No it is 29.

You had an amendment, Mr. Cloutier.

Mr. CLOUTIER: Yes. I think the best way to introduce the amendment would be to add it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 29 carry?

(Translation)

Senator DESCHATELETS: Just a point of information. Does it often happen that the services of an employee are no longer required under this clause? Did this happen often last year?

Mr. CLOUTIER: Last year, out of an employee population of more than 150,000 employees—that is those who came under the Civil Service Act—there were 348 dismissals.

Senator DESCHATELETS: But do these discharged employees have rights?

Mr. CLOUTIER: Yes, indeed. Their rights are set out in the other sub-paragraphs.

(English)

Clauses 29 and 30 agreed to.

(Translation)

Mr. ÉMARD: I have not read this clause. Do you take any account here of maternity leave?

Mr. CLOUTIER: All these matters are matters for negotiation. All types of leave will be negotiated. No leave is granted by the Civil Service Commission under this. All we say here is that if, for one reason or another, an individual has been granted some leave, and if during this leave another employee has been

asked to fill his position, the original employee is being assured here of some priority; in some cases, the same priority as is extended to the second, or replacement, employee.

Mr. ÉMARD: Is maternity leave a matter for negotiation?

Mr. CLOUTIER: Yes. It already exists, as a matter of fact.

Mr. ÉMARD: But I am not aware of that.

(English)

Mr. BELL (Carleton): I am not sure that I understood whether or not maternity was a matter for collective bargaining here.

Mr. CLOUTIER: No, no it is the leave part of it. In any event the commission would not be bargaining.

Mr. KNOWLES: With regard to the amendment we passed this morning there is no discrimination. It is granted to both sexes.

Mr. CHATTERTON: May I remind members that the amendment moved this morning was with regard to sex and not just sexual activities.

The JOINT CHAIRMAN (Mr. Richard): Clause 31—*recommendation to commission*.

Mr. CLOUTIER: Here, Mr. Chairman, again in response to a suggestion made by the Public Service Alliance, we would propose, with your leave, an amendment introducing the words "or their representatives."

The JOINT CHAIRMAN (Mr. Richard): Shall clause 31 stand?

Agreed.

Clause 32—*Partisan work prohibited*.

Shall clause 32 stand?

Agreed.

Clause 33—*Regulations by commission*.

Mr. BELL (Carleton): I am concerned, Mr. Chairman, on clause 33 and clause 34, by the fact that it is now spelled out in the most general terms. The old act gave the power of regulation, and it spelled out precisely the things upon which regulations might be made.

Mr. CLOUTIER: It is very interesting to note that in the old act the things that were specified in so much detail are now largely things which will fall within the collective bargaining field.

Mr. BELL (Carleton): Then why is this section necessary at all?

Mr. CLOUTIER: Because the old act had, if I can put my finger on it, a—

Mr. BELL (Carleton): My concern is that here is an unlimited power, in effect, to make regulations, and as a matter of general principle I take exception to such an unlimited power.

Mr. CLOUTIER: Well, the reasoning is this, Mr. Bell, that in the old act it made sense to impose a detailed listing, which was not all-inclusive, incidentally, by the preamble, I think to section 68, to detail these things because they were conditions of employment. Therefore it made sense to place the responsibility for

the regulation-making authority on the governor in council. But to the extent again, that the commission is an independent body and that it is administering the merit principle, then it should follow that it should have the freedom and independence to prescribe the methods and procedures for fulfilling its responsibilities.

There is a similar authority given under other legislation, an example of which is Bill No. C-170.

Mr. BELL (*Carleton*): I regret to say that you are entirely right in that.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 33 carry?

Mr. BELL (*Carleton*): On division.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 34—*regulations by governor in council*.

(*Translation*)

Mr. ÉMARD: On clause 33, I would have something to say, as subject to this Act it says "the Commission may make such regulations as it considers necessary to carry out and give effect to the provisions of this Act." Now, this present Act provides for all kinds of provisions which should properly be made the subject for collective bargaining. If the Commission were to decide to make rules and regulations which deal with leave and so on—

Mr. CLOUTIER: But the present Act does not deal with leave or anything like that.

Mr. ÉMARD: But what about clause 30, or clause 29?

Mr. CLOUTIER: Clause 29 comes under the Commission. But the authority for leave does not come under the Commission.

Mr. ÉMARD: Oh, I understand that. You said that that should be negotiated on an individual basis. But if you were to make rules and regulations which would be such as to limit the rights for collective bargaining, that, I think, would be a source of worry. I share Mr. Bell's view on that.

Mr. CLOUTIER: I am looking at paragraph 70 of Bill C-170.

What is interesting here is the first part. In other words, Bill C-170 clearly indicates that all aspects of the administration of the merit principle will not be made subject to arbitral award.

Mr. ÉMARD: Of course, if the bill is not amended, but if we did have an amendment?

Mr. CLOUTIER: That is the reason for which these three bills have been brought in together. That is why the three bills have been referred to the same committee. The reason is that we realize that these three bills have a very, very close relationship indeed. We realize that any change to one must be examined in the light of changes made to another.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Clause 33 agreed to.

Clause 34—*Regulations by Governor in Council.*

Mr. KNOWLES: Mr. Chairman, on clause 34, for obvious reasons I would ask that (1) (c) stand until we have dealt with clause 32, the one on political partisanship. We may not need it.

Clause 34, paragraph (1) (a) and (b) agreed to.

Clause 34, paragraph (c) stands.

Mr. KNOWLES: Is subsection (2) a standard provision? It is pretty wide; under this act you can set aside other acts.

Mr. CLOUTIER: This is the provision to bring into the realm of the merit principle employees of agencies or bodies that do not now come under the provisions of the civil service. These could be brought under—

Mr. KNOWLES: Are you not looking at (b)? I am looking at subclause (2)—

Mr. CLOUTIER: That is correct.

Mr. KNOWLES: Subclause (2) says: "Where a regulation—."

Mr. CLOUTIER: That is correct. The law officers tell us that subclause (2) is required to remove any doubt as to the application of clause 31(b).

Mr. KNOWLES: I see.

Clause 34, subsection (2) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*):

Clause 35—*Regulations by Governor in Council.*

Mr. KNOWLES: Mr. Chairman, there is the same proviso again. There is a reference to section 39 which is a section dealing with exclusions. I think we had better not pass subclause (1) of Clause 35 until we have dealt with 39.

Clause 35, subsection (2) agreed to.

Clause 35, subsection (1) stands.

Clause 36 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 39—*Ministerial staffs.*

Mr. KNOWLES: Is clause 37 the same as it has been in the present act?

Mr. CLOUTIER: Clause 37?

Mr. KNOWLES: Yes.

Mr. CLOUTIER: No, sir. At present, section 71(1) of the Civil Service Act of 1961, reads as follows:

71. (1) A Minister may appoint his Executive Assistant and his Private Secretary, and other persons to be employed in the office of a Minister shall be appointed by the Governor in Council.

This, in fact, creates paperwork for the Governor in Council; it is a paper operation only. In our judgment, the feeling was that where the minister can appoint his executive assistant and his private assistant, there should be no problem to his appointing also his secretaries and his clerk.

Mr. BELL (*Carleton*): Sir, with great respect, I think it is something more than the question of paperwork. What you are now doing is giving full liberty to a minister to appoint as many as he likes—

Mr. CLOUTIER: No, because we are not starting establishments here. The Governor in Council through the Treasury Board lays down the number of persons and the budget that the minister may have.

Mr. BELL (*Carleton*): I have reason to know that it has had a salutary effect on some ministers on other occasions to have had to go to the Governor in Council.

Mr. CLOUTIER: The ministers still have to abide by the directives of the Treasury Board in this respect on the establishment and the funds that they may use, in paying and the maximum salaries that they may pay for different categories of employees in their offices. Again, there is the distinction between the establishment and finance, between the Treasury Board and appointments of people to these positions that are established.

Mr. BELL (*Carleton*): Well, then, by reason of Treasury Board control irresponsible ministers cannot go high, wide and handsome.

Mr. WALKER: That is right. Any minister who reads this clause as a wide open door is in for a rude shock because this is just for the purposes of the right to appoint.

Mr. CLOUTIER: That is right.

Mr. KNOWLES: But is this not the clause under which we had a bit of a shemozzle awhile ago. I forget which government was in power so I will be impartial—

Mr. WALKER: It was not the New Democratic Party.

Mr. KNOWLES: It was not our party, that is right. We are as pure as the driven snow.

I am referring to the shemozzle we had over where a minister's office is. We had some ministers who had appointed people to their office and it turned out to be in Ottawa or Timbuktu or various cities around the country, but I will not name them. Is it still possible for a minister to appoint somebody to his office in Mullen's Corner?

Mr. CLOUTIER: The point that you raise is one of establishment. If the Governor in Council—mind you, I preface this remark by saying I am not speaking on behalf of the Treasury Board, but my understanding is that if the Treasury Board were to establish positions in Timbuktu and label them as belonging to the office of minister "X", then—

Mr. KNOWLES: You would have another shemozzle.

Mr. CLOUTIER: No, I would not say that. I would say that under the terms of this subclause the minister could appoint somebody to those positions.

Mr. BELL (*Carleton*): Mr. Cloutier, there are two aspects of these changes that bother me. One is in subclause (4) where you give an entitlement, as is proposed, for a period of one year from the date on which he ceases to be employed in a minister's office. The old act gave an immediate entitlement. This

seems to me as if it might be a situation where a former minister's executive assistant could be held out as a sort of lay-off for a period of a year. I have a very vivid recollection of something that goes back a long time ago. In 1930, on the change of government, the former private secretary to Mackenzie King was most regrettably held in a position for a long period of time by the incoming government, which happened to be of my party, until ultimately a position was found for him in the Canadian Radio Broadcasting Commission. A private secretary to a Prime Minister was most unfairly dealt with. I would like to be sure that this period of one year does not permit any government to hold a person in abeyance over a long period of time.

Mr. CLOUTIER: It is precisely to accomplish that to a certain extent. The present act gives that entitlement with no end.

Mr. BELL (*Carleton*): But it requires it to be done at once.

Mr. CLOUTIER: Oh, does it?

Mr. BELL (*Carleton*): Well, he is entitled to be appointed.

Mr. CLOUTIER: That is right, but it does not say at once. This entitlement is an open ended entitlement and we felt that this was unrealistic and that any entitlement should be limited to a given time. If a person cannot be relocated within the year, then there is something very much wrong with the person.

Mr. BELL (*Carleton*): Well, I will not press it because I think it becomes a matter of good faith with the parties and with people concerned. This legislation here will not operate except on the basis of good faith.

There is another aspect of it though and that is whether the entitlement once having been fulfilled, the obligation is ended. I have had this once drawn to my attention by reason of red circling. A person having once become entitled to appointment and being appointed under this, then, very shortly thereafter gets red circled.

Mr. CLOUTIER: But you see the present act guarantees that person a position for which he is qualified, not being lower than the position of a head clerk.

Mr. BELL (*Carleton*): That is correct.

Mr. CLOUTIER: The individual you are talking about I think would not have seen his salary reduced by reason of his being red circled. Therefore, the obligation or the entitlement has been honoured.

Mr. BELL (*Carleton*): That becomes the situation, fulfill the obligation one day, and then tomorrow—

Mr. CLOUTIER: The obligation is fulfilled when the individual becomes a full-fledged public servant, as any other public servant. By that fact he acquires a security of tenure.

Mr. BELL (*Carleton*): Again I say it becomes a matter of good faith. This section will not work on any other basis except with good faith of the parties involved.

(Translation)

Mr. ÉMARD: Mr. Chairman, I would like to call your attention to the difference in treatment which is provided for here under Clause 37, and that

which is provided for under Clause 29 in 37 4. We speak of people who have been employed as executive assistants, special assistants, or private secretaries to ministers. These people have an absolute priority in respect of other employment. If we return to what we were discussing a while ago, we will notice that in the other case, the deputy head may lay off the employee. An employee ceases to be an employee when he is laid off. I think it should be far more difficult to provide for an employee who has been an executive assistant, etc., to put him in an equivalent post. It should be far more difficult in that instance than it is in the case of a sweeper or a charman who has tried a competition and failed.

Mr. CLOUTIER: You have been speaking of lay-offs?

Mr. ÉMARD: Yes.

Mr. CLOUTIER: But the charman or the maintenance man is not laid off. If I may refer to this matter of lay-offs, this happens when the job is no longer necessary, is redundant.

Mr. ÉMARD: I was a little confused, I will admit. But still—look at the difference in the treatment here. When an executive assistant is laid off, he could enjoy absolute priority, but an ordinary employee who is laid off ceases to be an employee. Why the difference?

Mr. CLOUTIER: The distinction is this. The reason for which the executive assistant, to whom you have referred, ceases to be an executive assistant—and here I am not using the expression “has been laid off”—the reason, then, why he ceases to be an executive assistant is that his minister ceases to be a minister. This is a reason which goes beyond the control of the employee involved. This is a reason which bears no relationship at all with the termination of the employment. It is a series of circumstances which are entirely different from those which obtain in the other case. In the other case, the job disappears.

Mr. ÉMARD: But there are others..

Mr. CLOUTIER: That is why we say that the individual who is being laid off enjoys some priority.

Mr. ÉMARD: But not absolute priority.

Mr. CLOUTIER: Those cases where there is a lay-off do not coincide with the type of case involving the people you find in ministers' offices.

(English)

The JOINT-CHAIRMAN (Mr. Richard): Is 37 carried?

Clause 37 agreed to.

Clause 38 agreed to.

Clause 39—*Exclusion of persons and positions.*

Is clause 39 the section we are going to stand?

Mr. BELL (*Carleton*): No; Mr. Knowles suggested that clause 35 (1) stand until we carry clause 39. If we carry clause 39, we can go back and carry clause 35(1).

The JOINT-CHAIRMAN (*Mr. Richard*): But Mr. Knowles asked for the opportunity to speak on clause 30. I think we should let that clause stand.

Clause 39 stands.

Clause 40—*Fraudulent practices at examination.*

Mr. CHATTERTON: I have a question of Mr. Cloutier. The applications submitted for employment are not given under oath, are they?

Mr. CLOUTIER: No, sir.

Mr. CHATTERTON: May I ask why not, because I think they should be in this case.

Mr. CLOUTIER: I would have to take that question as notice. I know that the first few applications that I made to the Civil Service, I had to call on a friend of mine and I thought that was pretty ridiculous. I do not know why.

Mr. CHATTERTON: I am not saying it should be either, I am just curious.

Mr. CLOUTIER: I do not know the real reason other than perhaps it did not make much difference.

Mr. CHATTERTON: It is not important.

Clause agreed to.

Clauses 41 to 44, inclusive, agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*):

Clause 45—*Annual report on operations under act.*

Mr. CLOUTIER: Here again one of the associations, the Public Service Alliance, suggested that in order to provide greater assurance that departments would exercise delegated authority with diligence, that the Commission be required to report to parliament the nature of delegated authority granted the departments and more important from the viewpoint of the association, that it also be required to report to parliament any modification or amendment or rescinding of that authority that it found that it had to make. My colleagues and I are in agreement with this proposition and, if the Committee is willing, I would propose—

Mr. CHATTERTON: Should that not include appeals made as a result of delegated authority?

Mr. CLOUTIER: I do not understand the question. Do you mean appeals from individuals?

Mr. CHATTERTON: Appeals from individuals made in response to actions on those that—

Mr. CLOUTIER: And you would want what kind of report?

Mr. CHATTERTON: For instance, if a certain deputy head were given the delegated authority and that particular department had an abnormal number of appeals.

Mr. CLOUTIER: If there were an abnormal number of appeals, we would look into it and if there were reasons, we would rescind or modify the delegation and under that heading we would report the appeals.

The JOINT CHAIRMAN (Mr. Richard): We will then stand clause 45 for further amendment.

Clause stands.

Clauses 46 to 48, inclusive, agreed to.

Mr. BELL (Carleton): Mr. Chairman, may I ask a question at this point as to why certain clauses of the old act have been dropped. I am thinking in the first instance of clause 62, which dealt with holidays. I realize that there are aspects of negotiation in relation to Civil Service holidays. On the other hand, there is a great avoidance of headaches for the Commission and for other people, in having statutory approval of what are public service holidays.

Mr. CLOUTIER: Mr. Bell, this was a recommendation of the preparatory committee. Perhaps I might talk to that question, since I was associated with the work of the preparatory committee some time back. All the associations and all the trade unions that appeared before the committee were unanimous in advocating that holidays be a matter of bargaining. Constitutionally, we were informed by the Department of Justice that it would be impossible to grant to the Treasury Board the freedom to bargain on matters that are set aside in detail in legislation. Therefore this is the reason why 62 was dropped.

Mr. BELL (Carleton): Well the fear I have in relation to that is that you might have public service holidays bargained by one bargaining unit and then another would have totally different. So you might, for example, across the city of Ottawa get bargaining where one segment of a department is out on holiday this day and the other is at work, and if you want to create total chaos in the city of Ottawa this is just the best way to go about it.

Mr. CLOUTIER: Mr. Bell, my answer to that is this. If I were not a member of the Commission and if I were a member of the bargaining team representing the employee I would find it very easy, if I could not get agreement at the bargaining table to maintain a reasonable approach, to go to arbitration and win my point, thereby avoiding the chaos you referred to.

Mr. BELL (Carleton): I do not follow you completely on that. You suggest that arbitration will always, inevitably, bring precisely the same holidays for the Printing Bureau as it might for the Department of Justice?

Mr. CLOUTIER: Not always but if it makes sense for the Printing Bureau for reasons related to the printing trade to have holidays of their own, this should be permissible. In other words bargaining is a two-way street, a two-way relationship and the employer has—and I am sure will have—at heart the efficiency of the public service.

Mr. BELL (Carleton): Would it not be preferable at least to have a minimum number of holidays set forth for the public service that apply to everyone. Then, over and beyond that might be a bargaining situation.

Mr. CLOUTIER: I hate to seem to evade the issue but whatever is done about holidays, let me suggest it should not be done under the Bill No. C-181 because the commission will be out of that whole area.

Mr. BELL (*Carleton*): Where would you suggest it might be done other than bargaining?

Mr. CLOUTIER: There is, you see, in the present act, name the Civil Service Act of 1961, a right which has existed for the past four or five years; the right to pay. That right has been continued under the terms of Bill No. C-182. I do not whether I will be able to put my finger on it but at page 3.

Mr. BELL (*Carleton*): The statutory right to pay that was brought in 1961 is continued.

Mr. CLOUTIER: That is right. You will see in item (d) on page 3:

determine and regulate the pay to which persons employed in the public service are entitled for services rendered.

Mr. BELL (*Carleton*): That is something we will have to come to when we come to that bill.

Mr. CLOUTIER: That, with respect, sir, is what I suggest.

Mr. BELL (*Carleton*): I will drop it for the moment but I may have something further to say at that time. Then, Mr. Chairman, we have the whole situation about parliamentary staffs. Have you been in touch with the law clerks as to when they might be available.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think they will be available tomorrow morning. We have not given them any notice. Was it the intention of the committee to sit longer?

Mr. WALKER: We are through with this, Mr. Chairman, I suggest, until the amendments or whatever has to be done to them is done and I suggest that will not happen until possibly Tuesday. In the meantime I think the legal counsel, if we wanted to sit on Friday or Monday, is quite—I was speaking to him at dinner hour—ready and willing to come in for whatever consultation the committee wishes to have with him.

The JOINT CHAIRMAN (*Mr. Richard*): What about Monday, then?

SENATOR FERGUSON: Does that mean the legal counsel of the Senate, too?

The JOINT CHAIRMAN (*Mr. Richard*): Well, they were invited.

Mr. WALKER: So if we wanted to do something on Monday that would be all right. It is a late hour to bring this up, Mr. Chairman, but it has just been pointed out to me there are some schedules attached to the bill.

The JOINT CHAIRMAN (*Mr. Richard*): The schedules are part of the text but they do not need to be passed. We will adjourn then, until Monday night at 8 o'clock.

Mr. WALKER: For the purpose of listening to the legal counsel; is that right?

The JOINT CHAIRMAN (*Mr. Richard*): I do not see any reason why we should meet on Monday; we could leave that discussion with Mr. Ollivier and the other law clerk until a later date. There is no real rush about that. So why not call our first meeting for Tuesday, at 10 o'clock.

Mr. WALKER: Then, may I suggest that if we are calling the meeting for Tuesday we should be prepared to go on with the legal counsel first in case the cabinet have not finally approved the amendments Mr. Cloutier has in mind.

The JOINT CHAIRMAN (*Senator Bourget*): Well let us have our meeting on Tuesday night, then.

Mr. WALKER: I am suggesting that if we are meeting on Tuesday morning the amendments may not be ready immediately.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we leave it to the Chair, then?

Mr. WALKER: Yes, as long as we get notice.

An Hon. MEMBER: We need at least a day's notice on when the meeting will be.

The JOINT-CHAIRMAN (*Mr. Richard*): Oh, you certainly will have. Thank you very much Mr. Cloutier.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 17

TUESDAY, NOVEMBER 8, 1966
THURSDAY, NOVEMBER 10, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESS:

Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	Mr. Leboe,
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Munro,
Mr. Deschatelets,	Mr. Crossman,	Mr. Ricard,
Mrs. Fergusson,	Mr. Émard,	Mr. Rochon,
Mr. Hastings,	Mr. Fairweather,	Mr. Simard,
Mr. MacKenzie,	Mr. Hymmen,	Mr. Tardif,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Isabelle,	Mrs. Wadds,
<i>Guysborough</i>),	Mr. Keays,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Knowles,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 8, 1966.

(29)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.16 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Denis, Deschatelets, Fergusson, MacKenzie—(4).

Representing the House of Commons: Messrs. Berger, Chatterton, Émard, Fairweather, Hymmen, Knowles, Lewis, McCleave, Richard, Walker—(10).

In attendance: Mr. E. R. Hopkins, Parliamentary Counsel, The Senate; Dr. P. M. Ollivier, Parliamentary Counsel, House of Commons.

The Committee questioned the Parliamentary Counsel on their statements respecting constitutional questions involved in extending collective bargaining for the employees of the Senate and the House of Commons.

At 11.51 a.m., the meeting adjourned to 8.00 p.m. this same day.

EVENING SITTING

(30)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.20 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Deschatelets, Fergusson, MacKenzie—(5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Crossman, Émard, Hymmen, Lachance, McCleave, Richard, Walker—(9).

In attendance: Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

Also in attendance: Mr. J. J. Carson, Chairman, Miss Ruth E. Addison, Commissioner, Mr. Jean Charron, Secretary, Civil Service Commission; Mr. W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The Committee reviewed the clauses of Bill C-181 which were allowed to stand at meeting (27) November 3, 1966, as follows: Clause 1, stand; Clause 5,

carried as amended (see two motions below); Clause 6, carried as amended (see motion below); Clause 7, carried as amended (see motion below); Clause 8, carried as amended (see motion below); Clause 10, carried as amended (see motion below); Clause 14, carried as amended (see motion below); Clause 16, carried as amended (see motion below); Clause 21, carried as amended (see two motions below); Clause 22, carried as amended (see motion below); Clause 26, carried as amended (see motion below); Clause 27, carried as amended, on division (see motion below); Clause 28, carried as amended (see motion below); Clause 31, carried as amended (see two motions below); Clause 32, stand; Paragraph 34(1)(c), stand; Clause 35, carried; Clause 39, carried; Clause 45, carried as amended (see motion below).

Moved by Mr. Knowles, seconded by Mr. Crossman, and resolved,

That paragraph (a) of clause 5 be struck out and the following substituted therefor:

"(a) appoint or provide for the appointment of qualified persons to or from within the Public Service in accordance with the provisions and principles of this Act;"

Moved by Mr. Walker, seconded by Senator MacKenzie, and resolved,

That the following new paragraph be inserted immediately after paragraph (c) of clause 5, and the paragraphs re-lettered accordingly:

"(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6 and to render decisions on appeals made to such boards under sections 21 and 31;"

Consequently, paragraph (d) of clause 5, line 22, becomes (e), and paragraph (e), line 27, becomes (f).

Moved by Mr. Walker, seconded by Senator MacKenzie, and resolved,

That Clause 6, together with the marginal notes, be struck out and the following substituted therefor:

"Delegation
to deputy
head.

6. (1) The Commission may authorize a deputy head to exercise and perform, in such manner and subject to such terms and conditions as the Commission directs, any of the powers, functions and duties of the Commission under this Act, other than the powers, functions and duties of the Commission in relation to appeals under sections 21 and 31.

Idem.

(2) Where the Commission is of the opinion

- (a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this section, does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy, or
- (b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted,

the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and may thereupon appoint that person at a level that in the opinion of the Commission is commensurate with his qualifications.

(3) An appointment from within the Public Service may be ^{Idem.} revoked by the Commission pursuant to subsection (2) only upon the recommendation of a board established by it to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard.

(4) The Commission may, from time to time as it sees fit, revise ^{Idem.} or rescind and reinstate the authority granted by it pursuant to this section.

(5) Subject to subsection (6) a deputy head may authorize one ^{Delegation by deputy head.} or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform.

(6) In the absence of the deputy head, the person designated by ^{Acting deputy head.} the deputy head or, if no person has been so designated or there is no deputy head, the person designated by the person who under the *Financial Administration Act* is the appropriate Minister with respect to the department or other portion of the Public Service, or such other person as may be designated by the Governor in Council, has and may exercise the powers, functions and duties of the deputy head."

Moved by Mr. McCleave, seconded by Mr. Lewis, and resolved,

That the motion put by Mr. Bell at meeting (27), November 3, 1966, and allowed to stand, be now carried, viz "That in line 24, Clause 7, the comma after the word 'Commission' be struck out and the word 'or' substituted therefor, and in line 25, the words 'or an officer of the Commission' be struck out."

Moved by Senator Fergusson, seconded by Mr. Berger, and resolved,

That Clause 8 be struck out and the following substituted therefor:

"Except as provided in this Act, the Commission has the exclusive right and authority to make appointments to or from within the Public Service of persons for whose appointment there is no authority in or under any other Act of Parliament."

Moved by Mr. Émard, seconded by Senator Denis, and resolved,

That Clause 10 be struck out and the following substituted therefor:

"Appointments to or from within the Public Service shall be based on selection according to merit, as determined by the Commission, and shall be made by the Commission, at the request of the deputy head

concerned, by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service."

Moved by Mr. Lewis, seconded by Senator Deschatelets, and resolved,

That Clause 14 and marginal note be struck out and the following substituted therefor:

"Notice. 14. (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

Idem. (2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases."

Moved by Mr. Émard, seconded by Mr. Hymmen, and resolved,

That sub-clause (2) of Clause 16 and marginal note be struck out and the following substituted therefor:

"Language in which examination to be conducted. (2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined."

Moved by Mr. Walker, seconded by Senator Fergusson, and resolved,

That all that portion of Clause 21 following paragraph (b) thereof, lines 23 to 32 inclusive, be struck out and the following substituted therefor:

"may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment,

accordingly as the decision of the board requires."

Moved by Mr. Lewis, seconded by Mr. Knowles,

That the words "in the opinion of the Commission" together with the commas immediately preceding and following these words in paragraph (b) of Clause 21, lines 21 and 22, be deleted.

Motion negatived.

Moved by Mr. McCleave, seconded by Mr. Berger, and resolved,

That Clause 22 be amended by deleting the words in line 33 "notwithstanding any other Act" and the comma thereafter.

Moved by Mr. Walker, seconded by Senator MacKenzie, and resolved,

That Clause 26 be deleted and the following substituted therefor:

"An employee may resign from the Public Service by giving to the deputy head notice in writing of his intention to resign and the employee ceases to be an employee on the day as of which the deputy head accepts, in writing, his resignation."

Moved by Mr. Walker, seconded by Senator MacKenzie,

That Clause 27 be deleted and the following substituted therefor:

"An employee who is absent from duty for a period of one week or more, otherwise than for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than as authorized or provided for by or under the authority of any Act of Parliament, may by an appropriate instrument in writing to the Commission be declared by the deputy head to have abandoned the position he occupied, and thereupon the employee ceases to be an employee."

Motion carried on division.

Moved by Mr. Walker, seconded by Mr. Crossman, and resolved,

That sub-clause (4) of Clause 28, together with the marginal note, be deleted and the following substituted therefor:

(4) Where a deputy head gives notice that he intends to reject *Idem.* an employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

(5) Notwithstanding anything in this Act, a person who ceases *Idem.* to be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service,
and,

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

Moved by Mr. Walker, seconded by Senator Fergusson, and resolved,

That sub-clause (3) of Clause 31 be deleted and the following substituted therefor:

"(3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the em-

ployee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

- (a) notify the deputy head concerned that his recommendation will not be acted upon, or
- (b) appoint the employee to a position at a lower maximum rate of pay, or release the employee,

accordingly as the decision of the board requires."

Moved by Mr. Lewis, seconded by Mr. Walker, and resolved,

That sub-clause (4) of Clause 31, line 21, be amended by deleting the words "taken to the Commission" and substituting the word "made" therefor.

Moved by Mr. Émard, seconded by Mr. Berger, and resolved,

That Clause 45 be deleted and the following substituted therefor:

"The Commission shall, within five months after the thirty-first day of December in each year, transmit to the Minister designated by the Governor in Council for the purposes of this section a report and statement of the transactions and affairs of the Commission during that year, the nature of any action taken by it under subsection (1) or (4) of section 6, and the positions and persons, if any, excluded under section 39 in whole or in part from the operation of this Act and the reasons therefor, and that Minister shall cause the report and statement to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting."

At 9.58 p.m., the meeting adjourned to the call of the Chair.

THURSDAY, November 10, 1966.

(31)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.15 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, MacKenzie—(3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Crossman, Hymmen, Knowles, Lewis, McCleave, Richard, Walker—(10).

An informal discussion on Clause 32 of Bill C-131 (*Political Partisanship*) was the subject matter of this meeting held *in camera*.

At 11.45 a.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 8, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order, please. This morning was set aside to deal with the matter which Mr. Knowles referred to, namely, the status of the employees of parliament under any of the bills before us. It was agreed that we should request the hon. Speakers of both houses to allow their legal counsel to appear before us. Both Speakers graciously agreed, and we have with us this morning the law clerks of the honourable Senate and the House of Commons, Mr. Hopkins and Mr. Ollivier. I do not know in what order you want to proceed. Mr. Ollivier is well known to us, I am sure.

Dr. P. M. OLLIVIER (*Parliamentary Counsel and Law Clerk*): Mr. Chairman, before going ahead with this memorandum, there is just one question I would like to answer—and, as a matter of fact, this is at the request of the Chairman.

Since preparing this memorandum I had occasion to read the minutes of the meeting of your committee on the 27th, and I notice that Mr. Knowles, amongst other things, spoke of the vacuum that would be created by the fact that section 72 of the Civil Service Act was not put back into one of these acts. On the other hand, in reading also the Public Service Employees' Act I notice that that is covered to a certain extent by the fact that section 48, which deals with the repeal coming into force, reads as follows:

This Act, or any provision thereof, shall come into force and the *Civil Service Act*, chapter 57 of the Statutes of Canada, 1960-61, or any provision thereof, shall be repealed. . .

Therefore, the Civil Service Act is not automatically repealed when these acts come into force; they are repealed by proclamation of the Governor in Council. And if the Governor in Council so decides—and I imagine it would do so—they would not repeal section 72 of the Civil Service Act, which will still remain in force. This section might remain in force as a floating section and constitute a problem for the commission which is now charged with the revision of the statutes. But, they could very well put section 72, if it is not repealed, either in the Senate and House of Commons Act or the House of Commons Act. I think in our case it would be better if it were in the House of Commons Act, in the Library of Parliament Act; and for the Senate, I suppose it would be better in the Senate and House of Commons Act. So, the vacuum is not as complete.

Mr. KNOWLES: Well that depends, of course, Dr. Ollivier, on what is in the mind of the Governor in Council. Under section 48 of C-181 the Governor in Council did repeal the whole of it.

Mr. OLLIVIER: Oh yes; if he did repeal it it would not have the effect of bringing back the old act into force. The old act also was repealed, in which there

was no section 72. So, we would be in the same position as we were in 1867, I suppose, that parliament would agree with that automatically on account of its sovereignty.

Mr. KNOWLES: But, generally speaking, we are at the mercy of the Governor in Council in that regard.

Mr. OLLIVIERS Well, you could very well make a recommendation in your report to the effect that section 72 should not be repealed.

Mr. KNOWLES: Or, as you suggested, we could recommend that it, or something like it, be written into the Senate and House of Commons Act.

Mr. OLLIVIER: That is right.

Mr. KNOWLES: That is getting ahead of your memorandum.

Mr. OLLIVER: Yes. I was just answering that because when I drafted my memorandum I had not read that part of your minutes.

Mr. Chairman, Mr. Knowles, the member for Winnipeg North Centre, has raised the point that the staff of the Senate and House of Commons on parliament hill had been omitted from the collective bargaining bill now before you. According to Mr. Knowles, parliament is passing a law which instituted collective bargaining in the public service and which will not apply to our own employees, and he added "I don't think we should set ourselves outside the law. The issue is, do we continue to set pay rates for our secretaries arbitrarily or do we allow them to negotiate?" Of course the Public Service Staff Regulations Act, Bill C-170, defines an employee as a person employed in the public service, and in its turn public service is stated as meaning the several positions in or under any department or other portion of the public service of Canada specified from time to time in Schedule A. The enumerations contained in Part I and also in Part II of the Schedule do not cover the employees of the Senate, the House of Commons or the Library of Parliament. It would be simple indeed to amend the Act by inserting in this Schedule the words: "The Senate, the House of Commons and the Library of Parliament." The point is, however, should this be done, and would that be the proper procedure to follow?

I would bring to your attention the fact that when the new Civil Service Act was passed in 1961 it did, when first introduced as Bill C-71, include provisions making that Act applicable to the staffs of the Senate, the House of Commons and the Library of Parliament. However, in committee, the Bill was amended to ensure that the Senate and Commons would continue to have full control of their staffs.

An hon. MEMBER: And the library?

Mr. OLLIVIER: Yes and the library, as stated in section 72, to which we have referred.

The amendment introduced by the Member for Carleton, Mr. Richard Bell, and seconded by the Member for West Ottawa, Mr. George McIlraith, was approved unanimously by the committee studying the new legislation. I might mention here that I had something to do with it. I fought pretty hard so that our staffs would not come under the Civil Service Act.

Under the change there was specific mention that the officers, clerks and employees of the Senate and the Commons, and the Library of Parliament were

to be excluded from the provisions of the Civil Service Act although the services of the Civil Service Commission were still to be available in respect of the parliamentary staffs but only on request. By the way, that was to be done by a resolution of the House or the Senate or a joint resolution. It was understood also that these employees would receive benefits the Act would confer to the maximum possible extent.

Mr. Bell stated at that time that the changes in the new Act would ensure that there would be no interference with the prerogatives of Parliament.

I would like to quote here citation 446 of Beauchesne's which is as follows:

The control and management of the officers of the Houses are as completely within the privilege of the Houses as any regulation of its own proceedings within its own walls. These officers are under the guidance of certain rules and orders of the House which are among the regulation of its proceedings and as essentially matters of privilege as the appointment of committees, the conduct of public business and the procedure of the Houses, generally, including the acts of the Speaker himself in the Chair. Neither the Government nor any other authority has the power to deal with the staff of the House of Commons unless specially authorized to do so by statute or resolution of the House. Orders-in-council regulating certain activities of the civil service do not apply to the staffs of Houses of Parliament. This is confirmed by the following opinion given to the Clerk of the House of Commons on the 17th of December, 1936: "Dear Mr. Beauchesne:—With reference to your letter of the 23rd ultimo respecting the retirement of all employees of the Government at the age of 65, I am of the opinion that the provisions of the Order-in-council referred to by you are not applicable to officers and employees of the House of Commons unless proper steps have been taken to have these Orders-in-council first tabled and then approved by the House with respect to its officers and employees. Yours truly, W. Stuart Edwards, Deputy Minister of Justice.

As stated by Bourinot, at the commencement of every new Parliament Mr. Speaker, when elected, presents himself before the representative of the Crown in the Senate Chamber and formally claims "the undoubted rights and privileges" of the Commons. The representative of the Crown, through the Speaker of the Senate, recognizes and allows the Commons constitutional privileges.

In other words, the Houses cannot part with any of these privileges, immunities and powers, necessary for the conduct of business, their existence and their dignity, except by statute expressly conveying and delegating their powers, immunities and privileges to others.

This has been done in certain cases as for instance in the case of the translators and interpreters who have been put under the Translation Branch in the Department of the Secretary of State or Registrar General, in the case of the treasury officers who come under the Treasury Branch of the Department of Finance.

Another instance where the Commons has parted with their jurisdiction, previously exercised by committees of their own, is in the case of trial of controverted elections where the trial was handed over to judges in express terms. I might also mention, in 1964, the Electoral Boundaries Readjustment

Act, chapter 31 of the Statutes of that year, which provided for the establishment of the Electoral Boundaries Commission to do the work that had previously been done in committees of the House.

In all these cases, where the law does not make express statutory provision, the House of Commons can alone exercise jurisdiction over its members and officers.

As stated by Anson, in the Law and Custom of the Constitution, "the House has always asserted the right to provide for the Constitution of its own body, the right to regulate its own proceedings and the right to enforce its privileges."

Blackstone lays it down as a maxim upon which the whole law and custom of Parliament is based, "that whatever matter arises concerning either House of Parliament ought to be examined, discussed and adjudged in that House—to which it relates, and not elsewhere."

To come back to Bourinot. It has always been admitted by the courts that the House has the exclusive right "to regulate its own internal concerns."

In the case of *Bradlaugh v Gosset* in the United Kingdom, Mr. Justice Stephen laid down broadly the principle which may apply to such cases as the present under consideration.

It seems to follow from his judgment that the House of Commons has the exclusive power of interpreting a statute "so far as the regulation of its own proceedings within its own walls is concerned, and that, even if that interpretation should be erroneous, this court has no power to interfere with it directly or indirectly." I cite this to show how widely an interpretation is given to the rights and privileges of the Commons House of Parliament.

The full control and management of the officers and employees of the Senate and of the House of Commons has always been recognized as amongst the privileges of Parliament. The Civil Service Act of 1961, after some discussion in committee was, as we have seen, amended so as to enshrine this principle in section 72 which I would like to place on the record. Perhaps I could be exempt from reading it and we could take it as read. But I will read the first subsection:

72. (1) The Senate and House of Commons may, in the manner prescribed by subsections (2) and (3), apply any of the provisions of this Act to the officers, clerks and employees of both Houses of Parliament and of the Library of Parliament.

That is in subsection (2), applying it to the Senate and the House by resolution.

Mr. KNOWLES: There had better be an instruction on the tape to print the whole of that section in the record.

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed that we should print the whole of section 72 of the present Civil Service Act in the record?

Mr. OLLIVIER: The rest of the section reads as follows:

(2) Any action with respect to the officers, clerks and employees of the Senate or the House of Commons authorized or directed to be taken by the Senate or the House of Commons under subsection (1), or by the

Governor in Council under any of the provisions of this Act made applicable to them under subsection (1), shall be taken by the Senate or the House of Commons, as the case may be, by resolution, or, if such action is required when Parliament is not sitting, by the Governor in Council, subject to ratification by the Senate or the House of Commons, as the case may be, at the next ensuing session.

Any action with respect to the officers, clerks and employees of the Library of Parliament and to such other officers, clerks and employees as are under the joint control of both Houses of Parliament authorized or directed to be taken by the Senate and House of Commons under subsection (1), or by the Governor in Council under any of the provisions of this Act made applicable to them under subsection (1), shall be taken by both Houses of Parliament by resolution, or, if such action is required when Parliament is not sitting, by the Governor in Council, subject to ratification by both Houses of Parliament at the next ensuing session.

(4) Nothing in this Act shall be construed to curtail the privileges enjoyed by the officers, clerks and employees of the Senate, House of Commons or Library of Parliament with respect to rank and precedence, attendance, office hours or leave of absence, or with respect to engaging in such employment when Parliament is not sitting, as may entitle them to receive extra salary or remuneration.

The Senate and House of Commons being unable to act by themselves as a body have delegated their powers to the principal officers of Parliament.

For instance, the rules of the House of Commons place the clerks and servants under the direction and control of the Clerk of the House. To quote standing order 83:

He has the direction and control of all the officers and clerks employed in the offices, subject to such orders as he may, from time to time, receive from Mr. Speaker of the House

This is one of the ancient privileges of the House and is an essential part of its rights, like the appointment of committees, the conduct of public business, the procedure of the House itself, including the acts of the Speaker himself in the chair, and the conduct of strangers in relation to Parliament and its members.

According to Bourinot—and this is taken from the first edition, page 183:

In the Old Province of Canada, and for the session of 1867-68 of the Parliament of the Dominion, the appointment and control of the officers and servants of the House of Commons was practically in the hands of committees of the Commons. The House in that session parted in a measure with its jurisdiction in that behalf, by passing a statute providing for an Internal Economy Board, composed of the Speaker and four members of the Privy Council, to act as Commissioners for the management of the financial affairs of the House of Commons staff under the direction of the Clerk and the Sergeant-at-Arms. As a matter of fact, in all particulars where this Board has no legal control, the Speaker acts himself, as in England, with the assistance of the chief officers of the Commons, the Clerk and Sergeant-at-Arms.

The House of Commons has not parted with its sole control over its officers except in the respect mentioned, and there we see the Chairman of the Board, and practically the managing officer, is the Speaker of the House itself, and not any member of the Executive.

While the other members of the Commission are Privy Councillors, it is imperative that they must be members of the House of Commons, of that body alone, neither the Crown, nor any outside Commissioners having the right to deal exclusively with matters by the usage of this country, derived from the usage of centuries in England, within the jurisdiction of the House, among the privileges essential to its dignity as a branch of the legislature, in no sense subject to the Executive authority.

Now, standing order 92 which dates back also to 1867, reads as follows:

92. Before filling any vacancy in the service of the House by Mr. Speaker, inquiry shall be made touching the necessity for the continuance of such office; and the amount of salary to be attached to the same shall be fixed by Mr. Speaker, subject to the approval of the Board of Internal Economy and of the House.

I would add here, in accordance with those principles, that the law does not allow a statute framed in general terms, like Bill No. C-170, to revoke or alter any particular statutes applying to the House, nor revoke their privileges. In other words, the Houses being the judges of their own privileges, and having the sole regulation of their own procedure and proceedings, it is for them alone to control those instruments which are necessary for their effectiveness and the corollary is that the Houses have sole control over every matter affecting their officers and servants, except in those cases where they have delegated an authority to others in express terms.

This brings us to the theory of the separation of powers which I would like to mention because in its broader context it might affect and perhaps explain the position I am now taking.

The doctrine of the separation of powers was fully developed in 1768 by Montesquieu in his book *The Spirit of Laws* and taken up by the Encyclopedists on the eve of the French revolution. It had a great influence on the French Constituent Assembly of 1789 in bringing about the reforms to the political regime in France. It also influenced, to a great extent, the fathers of the American Constitution.

The three powers referred to are, of course, the legislative, the executive and the judiciary, and the theory is that for good government these powers should be as distinct and separate as it is possible to make them.

Montesquieu writes:

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehension may arise. Lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control.

It is true that the separation of the legislative and executive power does not exist in this country in the same manner as it does south of the border. The Prime Minister and his ministers, that is, the executive, are members of parliament and are responsible for practically all the legislation passed by that august body. The public legislation which appears within the covers of our statutes consists of Acts that were first introduced as government bills. If public bills introduced by private members ever become law, it is because they have been covered by the authority or influence of the government—*rari nantes in gurgite vasto*!

Presidential government as understood and practiced in the United States is based on the separation and independence of the legislature and the executive. The Cabinet system as practiced here as well as in England is based on the co-operation, the interaction and the interdependence of the legislative and executive powers. I might add that it is counteracted, of course, by the practice of responsible government.

We have been accustomed to look upon the judiciary as completely divorced from the legislative and the executive powers. This, however, is not quite true as the judges are appointed by the Governor in Council in accordance with sections 96, 97 and 98 of the British North America Act and their salaries fixed by parliament in accordance with section 100 of the same statute.

Section 15 of the Supreme Court Act states:

Subject to the direction of the Minister of Justice, the Registrar shall superintend the officers, clerks and employees appointed to the Court.

Section 17 states:

The Registrar or Deputy Minister, as the Minister directs, shall report and publish the judgments of the Court.

Although the estimates of the Court are prepared by employees of the Court, it is the Department of Justice that submits these estimates to the Treasury Board for approval. The administration of the court is the responsibility of the Registrar under the direction of the Chief Justice, but, as stated above, the Registrar is responsible to the Minister of Justice.

I remember many years ago a high official of the Department of Justice arguing with a judge of the Supreme Court and stating that, in his opinion, the Supreme Court was only a branch of the Department of Justice.

Other departments also interfere with the autonomy of the Supreme Court. For instance the Queen's Printer, under the authority of the Registrar General or the Minister of Industry, I am not quite certain, publishes the judgments of the court and is responsible to his minister. The Queen's Printer also furnishes the court with office equipment, stationery, supplies, and so on.

All this, I imagine, affects the autonomy of the Supreme Court and now I would draw the attention of the committee to Bill C-170, to the definition of public service for the purposes of the Bill, and to the fact that the staff of the Exchequer Court and the staff of the Supreme Court are comprised in the enumeration of Schedule A, bringing them for the purposes of the act within its four corners—again reflecting the division of powers so far as the judiciary is concerned.

In consequence of all I have said, it would appear to be easy to treat in the same manner the staffs of the Senate, the House of Commons and the Library of Parliament, but, I am asking myself whether this is desirable.

On the other hand, the employees of the Senate and of the House of Commons could be granted bargaining rights by an amendment to this bill under which the Speakers would represent parliament as their employer.

Perhaps I might note here that the character of the work performed by the staff of the House of Commons—I have no authority to speak for the Senate—is so different from that of government departments, that no organization or classification intended for the latter can be applied to it. It is only in the Commons that you will find such branches as Journals, Debates, Committees, Members' Stenographers, Reading Room, and so on, and none of these have anything in common with any commercial enterprise and the employees must be trained in the offices of the House—each of them has a specialty. Such grades as have been made for the ordinary clerks are useless for the House of Commons.

The principle of parliamentary supremacy was discussed extensively in special committees on the Civil Service on the 13th of April, 1932, then again on the 8th, 9th and 17th of June, 1938, on the 15th and 21st of March, 1939, but more especially at the sittings of the committee in 1961 during the months of May and June. That is why it is thought that this principle being finally agreed to should not now be yielded in the bills before parliament today.

The JOINT CHAIRMAN (*Mr. Richard*): Now, we also have Mr. Hopkins.

Mr. KNOWLES: Mr. Ollivier, having given his memorandum in English, perhaps Mr. Hopkins would give his in French.

Mr. E. R. HOPKINS (*Law Clerk and Parliamentary Counsel*): The assumption is flattering but inaccurate.

Mr. Chairman and members of the Committee, those of you who are westerners by birth will recall that in the old-time revival meetings the evangelist was always accompanied by an assistant who said hallelujah and passed the plate. Well, I will not pass the plate, but I will say hallelujah to what my colleague has said.

At the same time, no two lawyers say even the same thing in the same way, although I might say that Dr. Ollivier and I have run in double harness, quite happily, for some time. Sometimes he will lead off and sometimes I will. In the case of the divorce committee I believe I led off and Dr. Ollivier followed, and he did not merely say hallelujah but gave a splendid address on that too.

Mr. WALKER: Which one of you went through the western revivalist period?

Mr. HOPKINS: I did. I wonder if I might do, as my colleague did, and revert at the very outset to the question of Mr. Knowles with regard to the alleged vacuum that might arise by the repeal of section 72 of the present Civil Service Act. My conception of it is that while that might create what may be called a statutory vacuum there would be no constitutional vacuum, because the mere abandonment, if you want to put it that way, of the servants of the House of Commons, would bring into operation or continue in operation the *lex et consuetudo parliamenti*—the ancient law of parliament which confers upon the houses the right to control, appoint and so forth, its own offices.

Mr. LEWIS: I suppose what would create a vacuum then is the permissive provisions that parliament could do certain things within its rights.

Mr. HOPKINS: That is right; that is absolutely correct, Mr. Lewis. I would put it this way: my understanding is that neither the Senate nor the House of Commons has made any memorable use of that permissive right—except that very often, and I know this is the case in the Senate, the use of the Civil Service officials has been requested and they have been very helpful from time to time in aiding the proper authorities in the Senate, for example, to work out personnel problems. Now there is a considerable difference between the way in which these things work out in the Senate and in the Commons; these are slight historical differences; for example, it is a much simpler procedure in the Senate. The Senate has the power and the Senate actually by resolution approved of all the mechanism and paraphernalia of personnel. It operates exclusively through the standing committee of the Senate on Internal Economy and Contingent Accounts. The Speaker of the Senate is not involved and this is perhaps for historical reasons. The Speaker of the Senate is not elected by the Senators. His is an appointment by the Crown. Now what happened, if we may go back to 1867, was that the Dominion of Canada was proclaimed on July 1, 1867 and Parliament was called for November of that year. There was no staff. There was hardly a place to start. So that Crown appointments were made by the Crown of the clerks of the two Houses and of the Gentleman Usher of the Black Rod and the Sergeant-at-Arms, and they were instructed to get together a staff. I have here, if I can just put my finger on it, the resolution of the Senate in November of 1867 which since then, has been the pattern. Do not tell me I did not put it in? I know it by heart; it is very short and it says that apart from those officers of the Senate which by tradition are crown appointments—and those are in effect limited to the Clerk himself, which is a Crown appointment, and the Gentlemen Usher—all other staff and all employees of the Senate shall be subject to the direction and control in salaries, discipline and in every other way by the Senate. That was by virtue of the privileges of the Houses.

I think sometimes we speak of Parliamentary privileges but those are the privileges of the two Houses and the members thereof. This exists, as I say, as part of the inheritance which we got from the British Constitution and from the Preamble to the B.N.A. Act which says that we are to have a constitution similar in principle to that of the United Kingdom. So I do not think there would be any constitutional vacuum. The Senate, I am quite sure, would go right on as if the statute was not there, by virtue of its privilege.

Mr. KNOWLES: May I ask for a caveat?

Mr. HOPKINS: You may indeed. I would make this observation: speaking in terms of legislative vehicles, there are many ways to skin a cat and there are many ways to enact what is either law or tantamount to it. There is something rather comforting, if I may put it that way, although it may not be strictly necessary, in Section 72 of the Civil Service Act because it is understandable. You have to read a lot of books, study a lot, and go to the Library and so on to find out what is the *lex et consuetudo parliamenti*. But when you see something spelled out in the statutes such as section 72, there can be no confusion; and it could be—this is a matter of policy in which I hope that I do not intrude—that

if it were decided, for example, that some of the provisions might usefully be applied in either of these pieces of legislation, an appropriate provision could readily be put in along the lines of section 72. An ideal vehicle, and this is purely an opinion, would be the Senate and House of Commons Act. Actually Section 72 merely puts in statutory form, by imputation the right that the Senate and the Commons had by custom and usage of Parliament.

Mr. OLLIVIER: Mr. Chairman, may I comment on that? When Section 72 was put in it changed the law because before that appointments were made by the Civil Service Commission to positions.

Mr. HOPKINS: In some instances, yes.

Mr. OLLIVIER: In quite a number of instances. In my own case, when I was appointed, I was appointed by the Civil Service Commission after examination.

Mr. HOPKINS: But my point is this; when you sweep away all this legislation you are left with something; you are left with the custom of Parliament. So I say I would amend sections for statutory inclusion, in an appropriate statute as section 72. But I do believe that if you sweep away the whole, if you abandon, as you would in effect do by this new legislation, civil service intervention in any way in the service of the Houses it would, I think, undoubtedly be held that the privileges of parliament then would operate.

Mr. OLLIVIER: There is another point, there, if I may, Mr. Chairman. The act of repealing section 72 would not put back in the statutes the situation as it was before because the Civil Service Act at that time repealed the previous Civil Service Act.

Mr. HOPKINS: The whole thing would be swept away.

Mr. OLLIVIER: It would take us back to the *consuetudo parliamenti*.

Mr. HOPKINS: That is right. We are very fortunate, if I may put it that way, that we have something like that. If we were to sweep away that vast reservoir of experience and tradition we would be in trouble; we would be legislating 18 months a year.

Mr. LEWIS: We could get a new reservoir.

Mr. HOPKINS: It takes a long time to build a reservoir like that.

An hon. MEMBER: A hundred years.

Mr. HOPKINS: A thousand. As I say, I am trying as hard as I can to avoid expressing any opinion on the matter of policy. I think I should say that I think it was contemplated—and it is rather interesting—by the B.N.A. Act, by the tools with which it was written, that the Houses should control their own staff. One of the provisions in Section 91 is rather curiously worded in the light of what we are discussing now and it is worded in a limited way.

I quote:

91.8 (8) The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.

It does not say of the Houses of Parliament. It would include Crown appointments like the Clerk presumably, the Gentleman Usher and the Sergeant-at-Arms, but in terms it would not appear to attempt to apply to the servants of the Houses of Parliament. Now I am not intending, by any means, to imply by

what I have said that there is any absolute constitutional barrier to Parliament by clear words, enacting as they wish, in respect of the servants of the Houses of Parliament. I do not believe there is such a barrier. Mr. Knowles particularly will recall this, because he had a large part in the drafting of it. Under section 91(1), even if it involved a constitutional change, it is within the power of Parliament so long as it does not affect provincial matters. How control over its own staff would affect provincial matters, I do not know. I would think that safeguard is a provision which now is part of the law but which I understand might not have been part of the law had the Fulton-Favreau formula been accepted and brought into force. So I do not see the problem is one of constitutional barriers. I always have been brought up on the happy thought that Parliament is supreme. That, of course, is the leading characteristic of the British constitution. It has been qualified in Canada in two ways. One is that we have two sovereigns. We have dual or parallel sovereignty. We have the sovereignty of Parliament and we have the respective sovereignties of the provincial legislatures. Also, there are some limitations on the freedom of action or sovereignty of Parliament in the B.N.A. Act itself. Some of these cannot be readily changed by unilateral action by any legislature. These are the so-called entrenched provisions which require to be amended still by act of the Imperial Parliament.

I think I should only mention one more thing, and that is the effect on all this of section 18 of the B.N.A. Act as amended. By the way, I am using an excellent book; it bears the signature of Dr. Ollivier so I can read from it with complete confidence.

Mr. LEWIS: Could you give us the title?

Mr. HOPKINS: It is the British North America Act and Selected Statutes edited by Maurice Ollivier. Section 18 is the one which talks about the privileges, immunities and powers of the Houses of Parliament, and I think that is what we are talking about.

The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act, held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

In other words the Fathers of Confederation, in their wisdom, decided to leave it to the Parliament of Canada, but so anxious were they to have a constitution basically the same, similar, the very prototype or image of the English constitution, that they put the limitation in that the Houses should not be given any powers greater than those possessed at that time by the British Commons.

Mr. WALKER: May I ask a question before you go on? Does that leave room for any change, 100 years later, in the operation of the United Kingdom Parliament in relation to its staff?

Mr. HOPKINS: I would put it this way, that pursuant to the authority vested in it by the B.N.A. Act, Parliament has acted in the Senate and House of

Commons Act, and it has acted in a rather interesting way, by saying that the Senate and House of Commons respectively and the members thereof, shall hold, enjoy and exercise such privileges, immunities and powers as, at the time of the passing of the B.N.A., were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom.

The JOINT CHAIRMAN (*Mr. Richard*): What are you reading from now?

Mr. HOPKINS: I am reading from the Senate and House of Commons Act, Section 4, Chapter 249 in the Revised Statutes.

What I am trying to say is that Parliament is limited by that to the immunities and so on enjoyed by the Parliament of the United Kingdom from time to time, but, if I am not mistaken, new head 1 of section 91 of the B.N.A. Act will override that, since it does not concern the provinces but concerns Parliament. Therefore, my conclusion—I have gone through this merely to underscore it—is that Parliament is supreme in the matter of control of the employees of either House.

That concludes my remarks.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Ollivier and Mr. Hopkins, would you two gentlemen please remain in your seats.

Mr. KNOWLES: I have one or two questions, Mr. Chairman, but perhaps before I ask them I might be permitted to say that I already have in my files many useful memoranda from Dr. Ollivier and Mr. Hopkins, and I would be very happy to put into those files the minutes of today's proceedings because I think they have added to our understanding of the constitutional background of Parliament.

I think, also, that we are on pretty common ground. I think we have been helped to appreciate the supremacy of Parliament and the desirability of Parliament's controlling its own affairs. I am prepared to carry that to the point of saying that we should not farm out the control of the main body of our clerks, officers and staffs. But is it not clear, Mr. Hopkins and Dr. Ollivier, from what you have said, that, provided we stay within the framework of altering our own relationship with our employees, we are free to alter those relationships either as they are today, through unilateral action by the Commissioners of Internal Economy, or by collective bargaining?

Mr. HOPKINS: I would say Yes.

Mr. KNOWLES: I am not asking either of you to say that we should do this; I am merely asking whether in your view this is constitutionally appropriate.

Mr. OLLIVIER: I would agree with that, Mr. Knowles, and I would agree with what Mr. Hopkins has said. Of course I do not know how far you want to go. I do not know if you want to give us the right to strike but especially for the first part, the right to bargaining—

Mr. KNOWLES: You would not; you love it too much around here.

Mr. WALKER: Do not take advantage of his good nature, now.

Mr. OLLIVIER: No, I would not object to the right to strike if the Members of Parliament would go on strike themselves, but I do not think we should have the right to paralyze Parliament. On the right to negotiate, I would be quite in agreement with that. Of course that is a personal opinion.

Mr. KNOWLES: You have already indicated that we have delegated authority over some of our people in a few ways. May I note one or two that occur to me? You have indicated that our translators and interpreters are under the Department of the Secretary of State. You referred to the treasury branch. I might add, too, its control over our indemnities, its specialized control over our pension arrangements, which we have passed—

Mr. OLLIVIER: But what you do with delegating authority except delegating authority within Parliament itself?

Mr. KNOWLES: That is right; but I might also point out that the elevator operators in the centre block belong to public works. They are our servants, if you live on the principle—

Mr. OLLIVIER: I do not think we delegated that power, I think it just came naturally that we used public works.

In the case of the translators we did it purposely, and in the case previously, also, I understand that the financial people did not belong to the House of Commons before they were put under the Treasury Board, whereas there are other people who belong to government organizations without our having delegated that, such as the elevator operators. I do not think we ever passed an act to say that they would come under public works.

Mr. LEWIS: I suppose initially we borrowed them.

Mr. OLLIVIER: Yes; I think that is right.

Mr. LEWIS: They are seconded from the Department of Public Works to the Houses of Parliament.

Mr. OLLIVIER: Just as we have the Mounted Police on the grounds of Parliament. To me, that is still the precincts of Parliament—everything that is inside that wall down to the Rideau Canal, to Bank Street.

Mr. KNOWLES: At one time our typewriters were on loan to us from the Department of Industry. I think they are our own now, but I am not sure.

Mr. OLLIVIER: From the Queen's Printer.

Mr. KNOWLES: But the same applies to our furniture. I think it is public works. You mentioned the Queen's Printer in relation to the Supreme and Exchequer Courts. The Queen's Printer's establishment is very important to the operation of Parliament.

Mr. OLLIVIER: If the Chief Justice has to make a requisition to the Queen's Printer to get a pencil, I think it affects his autonomy.

Mr. KNOWLES: Our autonomy is certainly affected by the publication of *Hansard*, the statutes and all the other documents.

I might also point out that the telephone service on the bill, which used to come under the government some way, is now undoubtedly delegated to the Bell Telephone. If we want to get a phone in here we have to get in touch with Bell Telephone. If we make a long distance call we do it on lines provided by Bell Telephone. All I am saying is that there are a number of examples of these things that we have done. But I come back to our main body of employees whose rates of pay are fixed by the commissioners of internal economy, subject to the passing of a resolution by the House of Commons. All I am

contending is that we have machinery for fixing the rates of pay and the conditions of work of our main employees, and we do it within the constitutional framework which says that we are separate; and you will both agree with me that it is up to us, as a matter of policy, if we want to decide to do this on the basis of collective bargaining.

Mr. OLLIVIER: Yes; so long as you do not delegate your authority to an outside body.

Mr. KNOWLES: That is right; in other words, we could, for example, decide that the commissioners of internal economy are still going to make the arrangements with the employees. In fact they are going to act, in effect, as the Treasury Board would act with our employees. Would it not be desirable that this be done, but not by putting a clause back into C-181, and not by adding to the schedules of Bill C-170, but by putting it into the Senate and House of Commons Act.

Mr. OLLIVIER: Yes.

Mr. KNOWLES: You would agree that if we did that we would be maintaining, in appearance as well as in fact, separate control.

Mr. OLLIVIER: I think for us that it would be better in the House of Commons Act; and, for the Library of Parliament, in the Library of Parliament Act. As for the Senate, they do not have an act, so you would put it in the Senate and House of Commons Act; but for us, we have the House of Commons Act, which deals with the Board of Internal Economy.

Mr. KNOWLES: You have quoted me, when you started Dr. Ollivier, as expressing the view that if we are doing this for government employees generally, we should do it for our own. You were quite correct in so doing, and this is still my view, but I accept, without hesitation, your qualification that we should do it ourselves on a separate basis, maintaining the authority of parliament; but all I want us, as parliamentarians, to do is to provide for our employees the same kind of arrangements that we are by legislation, providing for other employees.

Mr. OLLIVIER: As a matter of fact, you could leave the acts as they are now and put in a recommendation in your report to the effect of what you are saying now.

Mr. KNOWLES: This is exactly, Mr. Chairman, what I would suggest we do—not to amend any of the statutes, but to recommend in our report back to the House that the government be urged to write an appropriate amendment into the Senate and House of Commons Act, the House of Commons Act and the Library of Parliament Act to provide for that department for our people on the hill.

(Translation)

Mr. ÉMARD: I think that the problem at the present time is that Parliament must continue to have control over its own staff, but that it has to be done through methods which are different from those of 1867, because in 1867 the labour movement was not organized to the same extent then as now.

Now, from what I listened to previously, it would appear that the Government will authorize employees of the House of Commons to bargain collectively. You also mentioned, Dr. Ollivier, that that power should not be delegated to

persons outside of Parliament. This means that employees should have an Association which is completely autonomous and independent from outside agents.

Mr. OLLIVIER: Yes, this is what I had in mind. I have no objection to the employees meeting and organizing themselves, but I would not want them to have recourse to an outside agency, for instance, which would place all employees of the House and Senate on strike at one point or another. I think that if we are to have this privilege, it has to be a privilege which is to be exercised from within. In this regard I wonder whether the legislation which you would apply to the House of Commons, to the Senate and to the Library of Parliament should go as far as this legislation? I think it should stop at the "with the right to strike", but of course, this is my own personal opinion.

Mr. ÉMARD: I agree that you do not necessarily have to have the right to strike but would the employees in an Association be able to call on the services of qualified persons outside? I am certain that at the present time, there are not very many employees among the employees of the House of Commons who are qualified to bargain with the Government.

Mr. OLLIVIER: In this regard we could follow the example given in Section 72, that as the need arises, employees could use outside assistance.

Mr. ÉMARD: The point I wanted to arrive at is precisely this. Would an association formed by the House of Commons, have permission to affiliate or would it merely be a form of loose affiliation, shall we say, with, for instance, the Civil Service Association or another labour body?

Mr. OLLIVIER: Not if it were to interfere with the sovereignty of Parliament. In other words—and of course this is a personal opinion that I am giving you, I am not authorized to give you anything else—I do not want the labour unions to be able to interfere with the sovereignty of Parliament and paralyze Parliament and its activity. I think that the most essential part is this. We can allow postal employees for instance, to paralyze the postal system, the railway employees to paralyze the railways. Apparently this is what we are supposed to be approving today, but I am not ready to allow any organization of Parliament the right to paralyze Parliament, and I am afraid that if this organization of parliament employees were under the jurisdiction of trade unions, these might indirectly find a way of doing just that. I have the greatest respect for Parliament and I find that nothing should interfere with the sovereignty of Parliament.

Mr. ÉMARD: I am in agreement. I do not think that we should give the right to strike to parliamentary employees. However, this is another subject. What I do want, however, is for employees of the House of Commons, who are not so very numerous, to be free to hire experts. The field of industrial relations today is a very detailed and complex one, it takes economists, it takes lawyers, it takes all kinds of experts, expert negotiators and so on. On the other hand these 1200 employees of ours grouped into one association cannot pay for the services of experts. The only way that they can obtain these services is by taking advantage of their affiliation to certain other unions or other organizations in the Public Services from which they can obtain the expertise required for collective bargaining; experts in grievance procedure, experts to show them how exactly to train representatives in such matters etc. This is extremely costly and the money

which 1200 employees could contribute each month would not be enough. That is why, I think, it would be absolutely necessary if employees are to have an association which can really take their interests at heart and bargain effectively on an equal footing with Parliament which has all the experts required, for this association to be affiliated to another body.

Mr. OLLIVIER: I have two replies to this. The first is that if we thought that employees of the House or of the Senate were in any danger of being less well treated than people outside you might perhaps be right. My second point however is that here—

(English)

Mr. LEWIS: Why should there be objection to the employees of parliament joining the Public Service Alliance? I think it is necessary not to confuse two things. You can have the group of employees of parliament bargaining separately, and bargaining, under an appropriate statute, amendments to the three acts mentioned, but I think what Mr. Émard says is perfectly right, and I see nothing in logic or in law that could prevent the parliamentary employees taking advantage of the expertise and the experience of the Public Service Alliance in their bargaining.

Mr. OLLIVIER: Yes; but what I would object to would be that the philosophy of our employees, on account of the sovereignty of parliament, might be, and perhaps should be, different from the philosophy of labour unions.

Mr. LEWIS: I am not discussing that, that would put you "on the spot" if we are arguing about politics.

(Translation)

Mr. OLLIVIER: You are getting into a question of policy, I wonder whether I can make any comment on that, though I have my own opinion, of course—

(English)

I think this is more a matter of politics, and unless I am provoked by Mr. Lewis I do not think I will get into it.

Mr. LEWIS: You have been provoking me and I have kept quiet.

Senator MACKENZIE: Mr. Chairman, first I would like to express my appreciation of the excellent statements made by our witnesses this morning. I think they are the best and clearest statements on this particular aspect of the Constitution of Canada that I have heard or read.

What I want to do is to put a question to Mr. Knowles. I agree with him that we must be concerned about the conditions, rates of pay and welfare of the employees of Parliament. I am wondering whether he feels that these must be identical with the other groups subject to collective bargaining under the new legislation that we are considering?

Mr. KNOWLES: Are you asking me whether I think the rates of pay should be identical?

Senator MACKENZIE: No. It occurs to me that their duties may be different and for that reason there—

Mr. KNOWLES: If I may answer, Senator MacKenzie, so far as details are concerned, no. It is the principle of the collective bargaining relationship.

Senator MACKENZIE: The other question I wanted to ask was whether, in this situation of what you might term a divided loyalty—that is, if they become members of the larger collective bargaining unit and that unit is in the process of hard bargaining with the government—the members of the staffs of the House of Commons and Senate would feel they would have to support them, and, in the possible situation of a strike occurring, engage in a sympathetic strike?

Mr. KNOWLES: Mr. Chairman, I would be very happy to answer that question of Senator MacKenzie's, as well. I do not think we should dictate to our employees what kind of organization they form, or what group they join. They may decide that it is desirable, for strength and so on, to join some outside organization. They may decide that the nature of the operation on the hill is such that they prefer to be in an organization of their own. It seems to me that it is inherent in collective bargaining, if it is at all genuine, that you let the other side make its own decision on what people it wants to join with and what procedures it wants to follow. I can imagine that employees on the hill would want their own organization. It might be separate, or it might be a unit of some larger organization, but even if it were a unit of a larger organization the conditions on the hill are different.

Senator MACKENZIE: Would you imagine that an affiliation would be adequate?

Mr. KNOWLES: I would leave that to them.

Mr. LEWIS: Mr. Chairman, if I may add to what Mr. Knowles has said—and I have heard it several times—I think we often think of the bargaining unit as being the same as the organization and that, I think, is perhaps at the basis of some of our concern. The Public Service Alliance, for example, which is to be formed in the next few days, will have, if I understand correctly, by the present arrangement, some 60-odd bargaining units. It may be the same organization but there will be 60-odd separate collective agreements, 60-odd separate bargaining units.

Now, in precisely the same way, if the employees of Parliament wanted, they could form their own organization and affiliate with the Public Service Alliance, but they would be a bargaining unit under a different statute, because I think we all agree that it should come under a different statute or statutes. They would have a separate collective agreement if that right were given them, and machinery altogether separate from the machinery of any other bargaining unit.

The point that Mr. Émard made was merely that legally—and you will correct me if I am wrong—there is a suggestion, or a proposal, that nothing in the law that we may recommend be passed should prevent the Parliamentary employees from seeking the services of some other organization to assist them, by whatever arrangement of affiliation or membership that they made decide. In other words, it is not that the law, in my view, has to say whether or not they join the Public Service Alliance—that is their business—but that all that will be required is that nothing in the amendments to the various acts should prevent them from affiliating with or joining any organization if they so desire. I think that is essentially the point.

Senator MacKENZIE: What would the effect of their joining the Alliance be? I do not quite follow you in terms of their being a separate unit and bargaining separately. What obligations, if any, would affiliation with the Alliance carry with it in respect of other units of the Alliance which have no—I was going to say—status in common? That is not quite what I mean.

Mr. LEWIS: I see what Senator MacKenzie means, Mr. Chairman, if I may answer, but Mr. Knowles may want to answer. Surely it will depend on what ground rules you lay down. If, for example, the suggestion that the right to strike should not be available to Parliamentary employees is accepted by the committee and by Parliament, then obviously their association with the Public Service Alliance would have no effect on that particular point which seems to me the only point concerning some members.

Mr. OLLIVIER: In other words you would still have the right to cross the picket lines?

Mr. LEWIS: If the law says so. Sometimes we take the right even if it does not say so, but if the law says so we would have it.

Mr. HYMMEN: Mr. Chairman, I want to make a comment or two. First I would add to what Senator MacKenzie has said, that this session this morning has been most informative, particularly to a new member of Parliament. I realize now, because Mr. Knowles put this question originally—and I certainly appreciate the fact he did, because I asked a naïve question at that time—how many employees there were. I think the statement was made that it was 1,500.

So far as I am concerned a prime requisite here is that the employees on the hill be given equal consideration on wage rates and working conditions as the employees we are now considering under collective bargaining.

I still feel in my own mind that the situation on the hill is a little different from the situation in the Civil Service generally. There are some rights which I am concerned with resolving. There is the question of members' secretaries. So far as I am concerned, subject to prerogative, the members' secretaries hold their positions in the particular situation at the pleasure of the member. When you get into collective bargaining you might have a few problems in this sort of situation. It has been suggested by Dr. Ollivier that the employees on the hill should not paralyze Parliament. It seems quite evident to me that that exclusive prerogative is the opportunity of the members themselves.

I do not know whether Mr. Knowles is trying to establish a principle here of collective bargaining being carried on in one segment of the employees of Parliament, but again I say that my concern is very definitely that these people should be given the same consideration as any other employee of the government, which is the employee of each citizen of this country and if this can be provided for I think we will avoid, many, many problems.

If I may comment on Mr. Émard's question—and again this is information which I would like to have—I am so sure that all the types of employees on the hill would come under one association. We could have another proliferation and another area of distinction. But I am very definite in my own mind that the people on the hill should be given equal consideration if this can be assured in a way other than through collective bargaining.

(Translation)

Mr. BERGER: According to present legislation could employees of the House of Commons and the Senate form an association today or tomorrow?

Dr. OLLIVIER: According to existing legislation, I think the right of association belongs to everyone. There is nothing which would have prevented us from joining an association. The same law would not apply to everyone, because some of our employees are not our employees, they are employees of the Secretary of State, for instance, like translators and interpreters. There is no doubt that they would have that right. But there is nothing to prevent our stenographers either from forming a union. There is nothing to prevent them from doing so though I cannot see for the moment what they would get out of it. The law would have to state that this union has the same rights as any outside association but in so far as Parliament is concerned, dealing with one office rather than another, and so on.

(English)

Mr. LEWIS: May I ask Dr. Ollivier a question—and I must ask it with a grin on my face. Would the paralysis of Parliament be more serious if the interpreters and translators who are not employees of Parliament went on strike together with the rest of the employees of the Department of the Secretary of State, or would it be greater if the secretaries of members of Parliament went on strike?

Mr. OLLIVIER: There are legislatures where there are no interpreters and secretaries, but you might have some objections from Mr. Grégoire and others if you did not have any translation.

Mr. LEWIS: That is the understatement of the year.

Mr. OLLIVIER: There is another point. In our own standing orders it says, for instance, that you cannot proceed if there is objection on second reading of a bill that the translation has not been made in French. You would immediately paralyse the government on that very point.

There is another reason I think we are not in the same position. There are fringe benefits in the House. If you notice subsection (4) of section 72, there is the fringe benefit of being able to take work when Parliament is not sitting, which does not often happen now. Another fringe benefit, I suppose, is the pleasure of working for members of the House!

Mr. KNOWLES: Mr. Chairman, I do not wish to open this up for a full-fledged argument, but I would invite Mr. Hymmen and others to take a look at this sacred cow, the member's personal prerogative in the appointment of secretary. Secretaries have rights, too, and I am not attacking it, but I just wonder if we have not carried this a little bit too far and whether collective bargaining necessarily needs to interfere with a confidential and efficient set-up so far as secretaries are concerned? I just want to suggest that there are two sides to it.

The JOINT CHAIRMAN (Mr. Richard): I would like to make a comment before Mr. Fairweather speaks.

I am wondering, since we have had the benefit of our witnesses, and there are no more questions to be directly addressed to them, whether this conversation, some of which is between members of the committee, would not be more useful at the proper time, when we consider what the members of the committee

intend to do with regard to a recommendation; because there is going to be a recommendation.

Mr. KNOWLES: So far as I am concerned it could be left until we are drafting our report.

The JOINT CHAIRMAN (*Mr. Richard*): Then it could be a clear expression of opinion by the members, between themselves, on the subject. I do not want to—

Mr. KNOWLES: I am willing to leave it until we are drafting a report.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions of the witnesses?

(*Translation*)

Mr. ÉMARD: I have a question to ask before these gentlemen leave. Following the discussions this morning, what would you suggest is the best way to approach the Government, or whoever it may be. The best way, in other words to allow collective bargaining for employees of the House of Commons, Senate and Library of Parliament?

Dr. OLLIVIER: Even if we accept this principle it will still be necessary to have Government intervention—for the Government to introduce legislation. I think that if your report was simply designed to recommend an amendment in the legislation relating to the Senate and the House of Commons and the Library of Parliament so as to give employees of Parliament the same advantages as are given through these various bills to outside services, this would be as far as you Committee could go for the time being. It is not in your terms of reference to prepare legislation related to this. By your terms of reference you are limited to the three bills which have been referred to you, however, I think there is enough scope in the order of reference to recommend that other legislation be introduced to give to Parliamentary employees the same advantages as those given to outside employees.

Mr. WALKER: Mr. Chairman, I would like to thank both witnesses along with others. I certainly appreciated having this constitutional lecture—and I use the word “lecture” in its real sense. It appears that the members of the committee, if I have listened correctly, agree that the way to take care of this situation, which concerns us all, would not be by amendment of any of the present legislation that is before the committee. This is just a general statement.

Mr. KNOWLES: You are right on the lines that Dr. Ollivier suggested a moment ago.

Mr. WALKER: Yes. Then, may I ask just two more quick questions. The right of association into a group because of a common interest is now upheld, or, at least, there is nothing against it. What, in your opinion, has stopped the House of Commons and Senate staffs from forming themselves into an organization.

Mr. OLLIVIER: Probably they are well-enough treated that they did not feel it necessary to do that.

Mr. WALKER: That is one viewpoint. May I ask—

Mr. KNOWLES: I would ask, from the point of view of the Senate, noblesse oblige.

Mr. OLLIVIER: Before you put your question I would like to answer Mr. Knowles. I think each one of your stenographers has an ombudsman. They are the members of Parliament, who act for the secretaries and who, either individually or together, must surely have enough influence to approach the Speaker of the House on the Board of Internal Economy. I think, as a matter of fact, the servants of the House have as many means of getting their positions put in better shape, if I can put it that way, than an ordinary stenographer in a department.

Mr. WALKER: Mr. Chairman, to comment on that, I think the most frustrated group, if members of parliament can be termed employees of parliament, are the members of parliament themselves in their dealings with the internal economy commission on behalf of secretaries and other people.

Mr. KNOWLES: You will agree with me that we did well in the last parliament in providing, through the Speakers, some grievance procedure, and I do not think it should be forgotten that it is there, but what we are concerned about is the principle.

Mr. WALKER: I have just one other question. You made a statement which gave me a little concern. Out of our approximately 1,200 employees of the House of Commons and Senate, how many are seconded to us by departments who, in fact, will come under this legislation that we are now considering?

Mr. OLLIVIER: That I do not know. I can only speak for my own office. I have one who was seconded to me from the Department of Justice, and I must say that he is better paid than if he were simply appointed by the House. I am confirming to a certain extent what you said. He is getting a better salary because he is paid the salary that he was paid in the Department of Justice.

Mr. WALKER: Well, does this not produce some danger to the preservation, if you like, of the principles you outlined?

Mr. OLLIVIER: That is all right; but you have to choose between them and sovereignty of Parliament, and I still opt up for the sovereignty of Parliament.

Mr. WALKER: Yes; this is what I am speaking about. Does not the fact that some of our House of Commons and Senate employees are attached to other departments and are simply loaned to us produce a danger to the sovereignty of Parliament. I am talking in terms of the paralyzing of Parliament.

Mr. HOPKINS: Yes, I see, Mr. Walker; but this does not apply to the Senate. Our chief of personnel says that we have no secondees.

Mr. WALKER: You have no secondees; so this is just House of Commons staff?

Mr. OLLIVIER: We would have very few of them, and it is always a temporary situation. When they are seconded it is either for a while, or if they become permanent then they stop being seconded.

Mr. WALKER: I am speaking about the difficulty of an employee who, because of his new bargaining position, may have an obligation to his association which is in fact not the association of the House of Commons staff.

Mr. OLLIVIER: I do not have the statistics. I do not know how many seconded employees we have. I do not imagine that we have very many; but they would be in a temporary position in that way. If they wanted to become permanent in the House it could always happen to them, I suppose.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Ollivier, and thank you, Mr. Hopkins.

We will call a meeting for this evening and proceed with the amendments which have been drafted by the Department of Justice.

An hon. MEMBER: That is Bill No. C-181.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, C-181.

We will adjourn until 8 p.m.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. As you will recall when we were studying Bill No. C-181, certain clauses were stood to allow Mr. Cloutier to prepare some amendments, in accordance with the wishes of the Committee, or rather, to prepare suggestions in proper form. Members of the Committee now have copies of the suggested wording for amendments. You will note that the clauses you have in hand now do not deal with the matter of appeals. That will be taken up in a separate group for the better order of business.

I think Mr. Cloutier should take over here and we will begin with the amendment to clause 5.

On clause 5—*Powers and duties*.

Mr. S. CLOUTIER (*Commissioner, Civil Service Commission*): Thank you, Mr. Chairman. Last week I indicated that the associations had requested some clarification of wording to remove any possible misinterpretation as to the authority of the Civil Service Commission to make appointments from within the public service as well as from outside the public service.

The amendment that has been drafted by the law officers of the Department of Justice reads as follows:

That Bill No. C-181, An act respecting employment in the Public Service of Canada, be amended by striking out paragraph (a) of clause 5 and substituting the following:

‘(a) appoint or provide for the appointment of qualified persons to or from within the public service in accordance with the provisions and principles of this Act.’

Mr. KNOWLES: I so move.

Mr. CROSSMAN: I second the motion.

Mr. WALKER: Mr. Chairman, I am sure that as these amendments are read out they will be agreeable to all members, so in a spirit of great generosity shall we divide up the honour of moving and seconding among the members of the Committee, unless there is one that a certain member is particularly interested in, and certainly as far as I am concerned I would be very happy to have him move it.

Mr. KNOWLES: I will sneak out and ask Jim to move it. I will give him the honour.

Mr. McCLEAVE: Anybody that wants to can have mine.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

Amendment agreed to.

Clause 5 (a), as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Cloutier, on clause 6.

On clause 6—*Delegation to deputy head*.

Mr. CLOUTIER: Clause 6 was stood in its entirety, even though I think the questions that were raised pertained only to a few of the subclauses. The amendment which is before the members of the Committee is proposing to replace the whole of clause 6 as it is printed in the bill and I would like to cite the differences between the two versions.

Subclause (1) the only change that is now proposed relates to the words line 35, "the conduct of" is removed. The law officers of justice have pointed out that the matters which the Commission in the spirit of this proposal should not delegate to departments, and which indeed the commissioners have no intention of delegating are anything having to do with appeals, not only the conduct. The first subclause would read the same as it appears in the bill without the words "the conduct of" which appear in line 35.

Mr. LEWIS: It probably makes no difference but it is a good suggestion.

Mr. CLOUTIER: Subclause (2), the suggestion was made by members of the Committee that in addition to providing for revocation in the case where the individual appointed did not have the necessary qualifications there should be provision whereby an appointment made in contravention of the terms and conditions of the delegation should be capable of revocation by the commission and the wording of subclause (2) (b) in the proposal so provides.

In addition the subparagraph that follows paragraph (b) provides that the commission may revoke in such circumstances but only subject to subclause (3). Subclause (3) is really a new subclause which provides for a suggestion made by the staff associations to the effect that when the case involves a public servant or somebody who had been appointed from within the public service, the revocation could be made only after an inquiry had been held, during which the employee concerned and the deputy head concerned had been given an opportunity of being heard.

Members of the Committee will notice I am sure that the words "or their representative" appear in that subclause to make again very clear that the representatives of the employees may appear before such an inquiry. That I think takes care of all the points that were made in relation to this particular subject the last time we met.

Mr. LEWIS: Shall we pass each subclause or would you rather go through the whole clause?

Senator MACKENZIE: Let us deal with each as we go by.

Mr. LEWIS: Does this mean, Mr. Cloutier, that you are providing a board to replace the appeals procedure, or what?

Mr. CLOUTIER: No, sir. This is not an appeal. This is a situation where the commission having delegated its authority to a department has reason to have some concern relating to an appointment that was made or that is proposed to be made in relation to (a) the qualifications of the individual concerned in relation

to the level to which he has been or is proposed to be appointed; or (b) has reason for concern in relation to the adherence to the terms and conditions of the delegated authority.

This says in effect that if the employee who had been appointed or is proposed to be appointed was a public servant at that time, then the revocation can take place only after an inquiry is conducted, and that inquiry will be conducted—perhaps I am ahead of myself here, Mr. Lewis—but would be conducted by the same appeal board that we will be talking about in clause 21 and clause 31, but the initial difference does not rest with the employee but with the commission that examined the manner in which the delegated authority is carried out.

Mr. LEWIS: That is the reason I raised this. If you mean the appeal board, are the words “upon the recommendation of a board established by it” appropriate—I do not know what your proposal, what your recommendation or suggestion with regard to appeal board may be, or shall we leave this stand until you get to the appeal board?

I understood Mr. Cloutier to say that it would be the same board, the appeals board or tribunal that would inquire into this.

Mr. CLOUTIER: The same officers who would in effect by specializing in the conducting of such inquiries dealing with the qualifications of the candidate.

Mr. LEWIS: What I am concerned about, Mr. Chairman, is if it is the same agency as other appeals will go to, then before I would feel that I could intelligently vote on these words I would like to see the other. If it is a different agency I would like some explanation. That is my only point, but I do not want to hold the Committee up. If it is the same agency as is proposed under a revised clause 21, then I would feel happier if I saw the revised clause 21 before dealing with this particular wording. We could let it stand until then if the members of the Committee do not object.

I understand that what this would mean in practice is that the commission becomes aware of an appointment; it has something in its mind which gives it a *prima facie* case that the appointment should not have been made. It does not act on it, but it sends it on to some other body, and acts on it only on that body's recommendation.

Mr. CLOUTIER: That is the gist of it.

Mr. LEWIS: That is the gist of it. Well, if the body is the same as the appeals board, it seems to me, wiser to let it stand until later. The rest of clause 6 would be carried. Would you move, Mr. Walker?

The JOINT CHAIRMAN (*Mr. Richard*): We went through—

Mr. WALKER: We have not finished the rest of clause 6 yet.

Mr. LEWIS: Well, we should look at clause 5, should we not?

Mr. WALKER: There is still some discussion—

Mr. LEWIS: Yes.

Mr. CLOUTIER: On subclause (5) Mr. Chairman, the point was made by a member of the Committee last week that a deputy head should not be capable of delegating authority in turn delegated to him by the commission without the

prior approval of the commission. The proposed amendment to subclause (5) which itself is a revision of subclause (4) as it appears in the bill, would so provide, and if I may read:

Subject to subclause (6) the deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions and duties of the deputy head under this act, including,—

And this is the change.

subject to the approval of the commission and in accordance with the authority granted it by this subclause, any of the powers, functions and duties that the commission has authorized the deputy head to exercise and perform.

In relation to subclause (6), Mr. Chairman, there is no change from the precise wording of subclause (5) as it appears in the printed bill.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, are you moving subclause (6)?

Mr. WALKER: No, Mr. Knowles, is moving that.

The JOINT CHAIRMAN (*Mr. Richard*): Just so that I know.

Mr. LEWIS: Just so that I understand it, I think that your revised number (5) gives the deputy head the authority to delegate all his functions and duties, and then you say that he may also delegate the duties delegated to him by the commission, the latter being subject to the commission's approval.

Mr. CLOUTIER: I think that I would like to express it this way, Mr. Lewis. The first part of subclause (5) provides for the deputy to delegate in such manner as he sees fit any power or duty assigned to him by the act itself without interference or prior approval of the commission. In addition to that, it would authorize him to delegate, subject to the approval of the commission and in accordance with the terms and conditions of the delegated authority, any powers that are assigned to him by the commission under the delegation subclause (1).

Mr. LEWIS: My difficulty—

Mr. CLOUTIER: If I may give you an example, under this Bill—I do not think I could name the clause right now—a deputy head, for instance, is empowered to accept the resignation of an employee. He is empowered specifically to request an appointment. These are the sorts of powers and duties which he may delegate to his own staff without prior reference to the commission. However, any powers that by the proposed act allocated or assigned to the commission and which the commission by the authority of subclause (1) may delegate to the deputy, he may not delegate further down the line within his department without the prior authority of the commission.

Mr. WALKER: Mr. Chairman, standing subclause (3) for the moment, I move the adoption of clause 6(1), (2), (4), (5) and (6).

Clause 6(3) stands.

Clause 6(1), (2), (4), (5) and (6) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 8.

Mr. CLOUTIER: Mr. Chairman, before we move on to clause 8, I think there was a motion moved but stood at the last meeting relating to clause 7(2).

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

On Clause 7—*Access to records, assistance, etc.*

Mr. CLOUTIER: The motion in effect would have removed the words "or an officer of the Commission" from line 25, clause 7(2). We took this under advisement and on reflection we see no problem with that particular motion being acted upon. Indeed, the law officers of the Department of Justice see none.

Mr. WALKER: Mr. Chairman, the motion was tabled; I suppose it could be put. The original mover may not be here but the motion was tabled the last time and we stood it—

The JOINT CHAIRMAN (*Mr. Richard*): Mr. McCleave wants to move it.

Mr. WALKER: I think you will find it was moved and seconded and tabled for voting on later.

Mr. LEWIS: I believe the amendment removed the comma after "Commission" so it would read: "the commission or a commissioner" and it would delete the words "or an officer of the commission".

Mr. WALKER: Right.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved by Mr. McCleave, seconded by Mr. Lewis that:

Clause 7(2) be amended by deleting the comma, after the word "Commission" in line 24 and substituting therefor the word "or" and by deleting the words "or an officer of the Commission" in line 25.

Mr. WALKER: You left out one deletion. I hate to confuse this but I think you left out the words to be deleted.

Mr. CLOUTIER: No, he is right.

Mr. WALKER: Well, you have two commissioners in there.

Mr. CLOUTIER: No, no.

Mr. LEWIS: It would read:

In connection, and for the purposes of, any investigation or report, the Commission or a commissioner holding an investigation has—

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 8—*Exclusive right to appointment*

Mr. CLOUTIER: My comment with respect to clause 8, Mr. Chairman, is the same that I made in relation to subclause (a) of clause 5. That is, the commission should have the authority to make appointments from within as well as outside the public service and the proposed amendment reads:

That Bill C-181 be amended by striking out clause 8 and substituting the following: "except as provided in this Act the Commission has the exclusive right and authority to make appointments to or from within the Public Service of persons for whose appointment there is no authority in or under any other Act of Parliament.

The JOINT CHAIRMAN (*Mr. Richard*): Moved by Senator Fergusson, seconded by Mr. Berger that clause 8 be amended according to the text in your possession now.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 10—*Appointments to be based on merit.*

Mr. CLOUTIER: On clause 10, I have two comments. The first again is in relation to the word "to" or "from within" and is the same as in the two previous sections. Then there is also the comment that I brought to the attention of the Committee, made by the staff associations, to the effect that the words "other process" which appear in line 5 should be further defined to indicate that these are processes of personnel selection and that they are designed to establish merit of candidates. The proposed amendment would read, Mr. Chairman:

That Bill C-181 be amended by striking out section 10 and substituting the following: Appointments to or from within the Public Service shall be based on selection according to merit as determined by the Commission, and shall be made by the Commission at the request of the Deputy Heads concerned by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Lewis seconded by Senator Deschatelets.

Amendment agreed to.

Clause as amended, agreed to.

On clause 14—*Notice.*

Mr. CLOUTIER: On clause 14, Mr. Chairman, the suggestion was made at the last sitting of this Committee, that the clause should be reworded or rearranged to provide that notices of competition should be given in bilingual form unless the commission deems it impractical to do so. However, I should like to bring to the attention of the members that clause 14 really needs to accomplish two objectives. One is to ensure that notices are such as to reach potential or possible candidates, and the amendment that I am now proposing would conserve this dual purpose. If I may read, Mr. Chairman:

That Bill C-181 be amended by striking out clause 14 and substituting the following:

14.(1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

(2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Lewis seconded by Senator Deschatelets.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 16—*Consideration of applications.*

Mr. CLOUTIER: The point that was raised, Mr. Chairman, in relation to clause 16 I think focuses more particularly on subclause (2). The concern that

was expressed came from the Association des fonctionnaires fédéraux d'expression Française, and if I may summarize the earlier discussion on this point, the concern was that any possible misinterpretation of subclause (2), as it appears in the present bill, should be removed by a rewording to make it extremely clear that the candidate may be examined in his own language but to the extent that his proficiency in another language has to be established then that portion of the test or examination may take place in a language other than his mother tongue. If I may read the proposed amendment, Mr. Chairman:

That Bill C-181 be amended by striking out subclause (2) of clause 16 and substituting the following:

(2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined.

The JOINT CHAIRMAN (Mr. Richard): It is so moved by Mr. Émard, seconded by Mr. Hymmen.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 22—*Effective date of appointment.*

Mr. CLOUTIER: I think some question was raised on clause 22 as to the reasons for the appearance of the first four words in this clause. Again, I undertook to seek an explanation. I would like to refer members to clause 22 of Bill No. S-9 the short title of which is the Interpretation Act, which was passed by the Senate on June 30, 1966, and which I understand has yet to be passed by the House of Commons. I am referring particularly to subclause (3) of clause 22 which provides for retroactivity of appointments other than appointments by instrument under the Great Seal, for a maximum period of 60 days. In the public service, because reclassifications are, in fact, appointments and because on occasion reclassifications must, or should, have a greater retroactivity than 60 days, therefore at the time this clause was drafted which was quite a few months ago, even before this bill was passed by the Senate, it was felt wise at that time to introduce the words "Notwithstanding any other Act". However, on re-examination of this point, with particular reference to the arguments presented by some members of the Committee to the effect that the Public Service Employment Act, if it is passed, would take precedence over the Interpretation Act, the law officers of justice see no objection to the removal of these four words. In order to give effect to the wish that was expressed by some members of the Committee at the last sitting the proposed amendment would read:

That Bill C-181 be amended by striking out from clause 22 the words "Notwithstanding any other Act".

The JOINT CHAIRMAN (Mr. Richard): It is so moved by Mr. McCleave, seconded by Mr. Berger.

Amendment agreed to.

Clause, as amended, agreed to.

Mr. KNOWLES: It will have to begin with a capital "A".

On clause 26—*Resignation*.

Mr. CLOUTIER: Here the comment was made by one of the staff associations that there should be no doubt that in accepting a resignation the deputy head should be so in writing and the proposed amendment would read, Mr. Chairman:

That Bill C-181 be amended by striking out clause 26 and substituting the following:

26. An employee may resign from the Public Service by giving to the deputy head notice in writing of his intention to resign and the employee ceases to be an employee on the day as of which the deputy head accepts, in writing, his resignation.

The JOINT CHAIRMAN (*Mr. Richard*): It is so moved by Mr. Walker, seconded by Senator MacKenzie.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 27—*Abandonment*.

Mr. CLOUTIER: On clause 27, Mr. Chairman, the associations observed that it was possible that an employee may be absent from his position without specific permission for reasons that were beyond his control and that in such circumstance he should not be penalized by being declared as having abandoned his position. The proposed amendments, Mr. Chairman, would accomplish this. I will read the following:

That Bill C-181 be amended by striking out clause 27 and substituting the following:

27. An employee who is absent from duty for a period of one week or more, otherwise than for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than as authorized or provided for by or under the authority of any Act of Parliament, may by an appropriate instrument in writing to the Commission be declared by the deputy head to have abandoned the position he occupied, and thereupon the employee ceases to be an employee.

Mr. LEWIS: I apologize that I was not here when this clause was reached but is absenteeism a matter for collective bargaining or is it not, Mr. Cloutier? As I understand it, the standards of discipline are a matter for collective bargaining. Is that correct?

Mr. CLOUTIER: Yes, sir.

Mr. LEWIS: As I understand it, the discipline for absenteeism that surely is also a matter for collective bargaining.

Mr. CLOUTIER: The kind of absenteeism that is provided for here, Mr. Lewis, is the sort of instances where the employee simply disappears.

Mr. LEWIS: Well, that is precisely the point. Mr. Chairman, I apologize again for not having been here, for it was my intention if I had been here to ask why this section is needed at all. Suppose you have a collective agreement which is

between a bargaining agent covering a bargaining unit where they persuade the government that a person may be absent for 10 days without suffering dismissal. Why should an act of parliament have this precise detail? I can visualize a situation where a person is absent for only three or four days and deserves to be fired if he is absent on a toot and has no explanation for it at all, or if he has been absent three or four times for two or three days and shows a pattern of absenteeism which is unjustified. I am giving you the other side: The two may well be a perfectly just cause for dismissal. Why should this bill deal with this kind of detail if you are going to have collective bargaining over the standards of dismissal?

Mr. CLOUTIER: Mr. Lewis, for this reason. While the absenteeisms for all the reasons you are referring to are correctly and properly, I would think—mind you I would not want to be quoted as an expert on this point, but I think it would be proper subject matter for collective agreement, in the case of contravention for dismissal under Bill No. C-182 and possibly eventual grievance and adjudication under Bill No. C-170, however there are still cases of the individual simply disappearing. If the man has disappeared there is no grievance to be brought and there is no adjudication on the case and there is a need to separate these individuals from the public service.

Mr. LEWIS: I am just not persuaded, Mr. Cloutier. Try again, maybe I will not be so obstinate. But, as I read this bill, the public service commission has authority—if I remember correctly—correct me if I am wrong—to make regulations—

Mr. McCLEAVE: May 31 cover it, Mr. Lewis?

Mr. LEWIS: No, I do not think so. Section 33—I remember it correctly—states as follows:

33. Subject to this Act, the Commission may make such regulations as it considers necessary to carry out and give effect to the provisions of this Act.

Now, I would have no objection at all to the commission, subject to the collective bargaining process, making rules regarding absenteeism and, they might even with justice be stricter than this week's absence provided in this section. I indicated to you one example which is fairly frequent in industry. Sometimes the man is absent only one day but if he was absent three days one week and two weeks later, another two or three days and three weeks later another day or two, then, if he does it again, and he has been given warning, he is fired whether he is absent a day or a week or a month and you may well be able to support that. What I find incongruous—I am not going to fight about it—no, maybe I will, too, because I think it narrows unnecessarily the grounds for collective bargaining. I find it completely incongruous to have this kind of detailed regulation on absenteeism in a section of the bill.

Mr. CLOUTIER: Mr. Lewis, I would argue that this section does not narrow down the field on the subject matter of collective bargaining but it is a section necessary to indicate how a public servant who, after all, by becoming a public servant acquires some rights, may abandon or lose these rights. The law officers, I think, would argue, as I am going to try to do right now, that a right to a public servant given by a salute cannot be removed from that individual by a

regulation. In other words, this statute gives to a public servant the right of security of tenure and a regulation passed by the commission would not be sufficient to, in effect, say to that employee that he has abandoned his position.

Mr. KNOWLES: Mr. Cloutier, would you relate what you are now saying to section 24 which reads as follows:

24. The tenure of office of an employee is during the pleasure of Her Majesty, subject to the provisions of this and any other Act and the regulations thereunder and, unless some other period of employment is specified, for an indeterminate period.

Senator MACKENZIE: Mr. Chairman, I think that Mr. Lewis and his colleagues are not objecting to a person losing his status as a civil servant for being absent without cause, but I understand him to argue that this is already provided for by the regulations which gives to the commission the power to dismiss the person if he is absent or shows any inclination for frequency of absenteeism.

(Translation)

Mr. ÉMARD: I think that in this particular case it is a little bit different. It is not a question of dismissing an employee for a reason. In this case he is being dismissed because of absence from work, but when the time comes to put that on file, he is no longer there to defend himself. If the employee is not dismissed, if he comes back at the end of 4 or 5 days, although he is absent every week on Mondays as in some cases, he is always there to defend himself. In that case however he would come under the procedure established for collective bargaining. But this is in the case where an employee disappears completely. We have already seen cases like that. I do not think that this is covered by the collective agreement, nor is the dismissal procedure, and I think that the Act is right in this particular case.

(English)

Mr. KNOWLES: I wish you would try to answer my question, which I think is still relevant: Can the commission not do this under clause 24?

Mr. CLOUTIER: It, of course, talks about "subject to the provisions of this and any other act and the regulations thereunder".

Mr. LEWIS: The regulations thereunder.

Mr. CLOUTIER: Yes. I would argue that the provision of that particular reference relates to the conditions of employment rather than the termination of that employment.

Mr. KNOWLES: It says "security of tenure".

Mr. MCCLEAVE: Mr. Chairman, I suggest that Section 31 is also in this field and is relevant and that the only limit on 31—I am sorry, the only limit on 24, which Mr. Knowles has mentioned, and upon 31, is this section 27. Somebody has decided it is all right for an employee to go off for a period of one week or more; but for any other reason, the deputy head, for example, in section 31, can decide if an employee is incompetent or incapable and by stating this to the employee, knock him out or knock him down. It is probably just the fact that we are getting three somewhat separated sections of the act which are confusing but I think I can see the point in them.

Mr. WALKER: I would like to remind the Committee that the rewording of this clause was for the protection of a civil servant who might have been in an automobile accident, suffered amnesia, and because he had no control over the length of time he was away, this was the purpose of spelling it out so precisely. It had nothing to do with the catching of a malingerer. It was just for the opposite purpose that this was put in, to protect somebody through additional language. This does not cover the principle you are speaking of, I know, but when this was discussed at first, we felt this additional language was needed for the protection of somebody who had no control over the accident which made him absent himself. Is this not so?

Mr. CLOUTIER: I think so. The whole intent of the clause is to protect the employee, or to deal with the employee who is not there to be the subject of a reprimand or disciplinary action and thereby to provide a legal manner in which he could be struck off from the records.

Mr. KNOWLES: Mr. Chairman, on looking at the marginal note which is one word "abandonment", I would think that what you are trying to provide here is machinery for the case of an employee who abandons his job. At that point you say he has abandoned his job and is out. But you equate abandonment with just what act? Absence for a week or more. If you had said and you were nodding your head when I was paraphrasing, and if this section read: "An employee who has abandoned his job shall thereby be out", I do not think that would have quite the odour which this clause seems to have.

Mr. CLOUTIER: The clause will have to be more precise as to what abandonment is. The attempt in this subclause is to precisely define what abandonment is. It would be good enough to say he has abandoned his job because he could leave for a couple of hours during the day and the deputy would then—

Mr. KNOWLES: Or he could be there; he could be present.

Mr. CLOUTIER: I do not think that anybody would follow that line of argument very far.

An hon. MEMBER: I would like to ask Mr. Cloutier if there is a clause similar to this in the present act and to what extent has it been used?

Mr. CLOUTIER: Yes. The similar clause is in section 53, if I may read it:

An employee who is absent from duty without leave for a period of one week or such longer period as may be prescribed by the regulations, may by an appropriate instrument in writing be declared by the deputy to have abandoned his position and thereupon the position becomes vacant and the employee ceases to be an employee.

Mr. WALKER: All we were trying to do was to take that old section of the act but build into it a protection for an employee who had no control over the cause of his absenteeism.

Mr. LEWIS: My answer is, Mr. Chairman, that when you did not have Bill No. C-170 I could well understand the Civil Service Act making this kind of provision, but if standards of discipline are negotiable I still cannot, for the life of me, see why one subject of possible discipline gets written into the act itself.

Mr. CLOUTIER: My answer to your point, Mr. Lewis, has to be that the employee who is not there cannot be disciplined.

Mr. LEWIS: I am sorry, but I do not follow that, Mr. Cloutier. You can discipline someone who is not there. Dismissal of a person because he is absent is a form of discipline, surely, and it is because he is absent you dismiss and because he is absent he is not there. Certainly we can discipline an employee who is not there. The thing that worries me about this—let me put it to you in another way. Suppose an employee is absent for ten days, and on the eleventh day the deputy head takes the action provided in this clause. On the twelfth day the employee appears with a perfectly good reason for his absence. What authority has the deputy head then, because as of the date of the deputy head stating in the appropriate instrument in writing, he ceases to be an employee. What do you do, do you rehire him?

Mr. CLOUTIER: The interpretation under that circumstance is that if the reason is satisfactory to the deputy head, then the deputy head did not have legal basis under which to have declared him—

Mr. LEWIS: The instrument is null and void.

Mr. CLOUTIER: That is right. So he is then back in his job.

Mr. WALKER: May I ask a question, Mr. Chairman? Mr. Lewis I would like you to hear this, too. May I ask Mr. Cloutier through you Mr. Chairman, does the inclusion of this clause do away with the right of abandonment being dealt with under collective bargaining? I do not see that it does.

Mr. CLOUTIER: Definitely not.

Mr. WALKER: I do not think this takes from bargaining the right to deal with cases such as this, but you can say a man can be represented if he is not there. I suppose in a measure he can but you cannot put up much of a case for him surely if he is just represented by someone who does not know the circumstances.

An hon. MEMBER: Mr. Chairman, I do not want to take up much more time but I think we are assuming in this clause that if the man is away for ten days that nobody is going to make any effort to contact him or find out why he is not there or if he has been in an accident or something. The other thing I was going to ask, just as a point of interest is, if the absenteeism is going to be a bargaining matter, is there any present code of discipline in the civil service on absenteeism?

Mr. CLOUTIER: Not at this point in time. There is not an over-all standard of discipline which would govern such situations. There are provisions in various departments. Of course, this would be changed under collective bargaining.

An hon. MEMBER: I was just trying to get an idea where we were starting from.

Mr. KNOWLES: You are on our side of the argument now, Mr. Cloutier.

Mr. CLOUTIER: Do you really think so?

Mr. LEWIS: Yes, you have just stated the case. You have not had any code of procedure for absenteeism but you now will have it, under collective bargaining.

Mr. CLOUTIER: I must have misunderstood the question quite seriously if I gave that impression. I thought that the question which was asked of me was whether there is now in the public service a standard code of discipline applying to the whole of the public service. I said: "No, there is not one," but there are

standards of discipline in each department dealing with this sort of thing. The revision to the Financial Administration Act which the Committee will be studying under Bill C-182 would provide the Treasury Board with the authority of establishing standards of discipline covering all departments.

Mr. LEWIS: If Mr. Cloutier feels that this is absolutely essential, I will go along with it.

Mr. WALKER: I move clause 27 be amended by substituting the following:

"27. An employee who is absent from duty for a period of one week or more, *otherwise than for reasons over which, in the opinion of the deputy head, the employee has no control* or otherwise than as authorized or provided for by or under the authority of any Act of Parliament, may by an appropriate instrument in writing to the Commission be declared by the deputy head to have abandoned the position he occupied, and thereupon the employee ceases to be an employee."

Senator MACKENZIE: I second the motion.

The JOINT CHAIRMAN (Mr. Richard): Does the amendment carry?

Amendment agreed to.

Clause, as amended, agreed to.

Some hon. MEMBERS: On division.

The JOINT CHAIRMAN (Mr. Richard): We will now go on to clause 28.

On clause 28—*Probationary period.*

Mr. CLOUTIER: On clause 28, there are again two comments which were made. The first one, Mr. Chairman, was made by the staff association who argued that the new bill, or Bill No. C-181, like the present Civil Service Act, should require the deputy head to communicate to the commission the reasons for which he proposed to reject an employee on probation. As I indicated at the last sitting, the commission supports this view. In addition, the point was made by members of the Committee that in the case of an individual on probation, following a promotion, thereby in the case of a so-called, long time public servant, there should be an obligation on the part of the commission not only to try to place him but actually to put him on an appropriate eligible list. Indeed, the proposed amendment would seek to accomplish these two objectives. If I may read it, Mr. Chairman:

"That Bill C-181 be amended by striking out subsection (4) of section 28 and substituting the following:

(4) Where a deputy head gives notice that he intends to reject an employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

(5) Notwithstanding anything in this Act, a person who ceases to be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service, and,

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

(Translation)

Mr. ÉMARD: The Deputy Head is apparently required to give notice to the Commission when he decides to dismiss a person, but does the Commission have to give notice to the employee if the employee wants to know the reason for his dismissal, or does it satisfy the Act if the Commission itself is aware of it?

Mr. CLOUTIER: The interests of all concerned would be better served if the Commission is left free to decide, at its discretion of the best way to communicate with the employee.

Mr. ÉMARD: If an employee absolutely wants to know the reason, it does not mean he will be told?

Mr. CLOUTIER: The Deputy Minister communicates with the Commission on an official basis. When it is necessary to inform the employee of the reasons for his dismissal, it is often necessary to provide further explanations, or amplification, or to proceed with a little more restraint than would be the case in an official communication.

Senator DENIS: The Commission is not absolutely required to approve the deputy head's decision, even if he gives reasons for it?

Mr. CLOUTIER: The reasons given by the Deputy Minister are considered by the Commission. It might be that the reasons which the Deputy Minister gives appear valid in so far as the actual work being performed by the employee is concerned, but might not be so in other circumstances. This would enable the Commission to appoint the individual in question to another position.

(English)

Mr. LEWIS: But you do intend—and I am not for the moment saying I disagree—by the previous section, but at all events by your new subclause (4), do you not, to give the deputy head the sole authority not subject to review even by the commission—

Mr. CLOUTIER: That is right.

Mr. LEWIS: —to reject a person during his probationary period.

Mr. CLOUTIER: That is right, and this is consistent with the usual practice both inside and outside the civil service.

Senator DENIS: Do you think that the reasons given are not sufficient for the rejection of an employee?

Mr. CLOUTIER: Where the commission might be of that opinion then the commission will place that individual elsewhere.

Senator DENIS: But he will have to move, anyway.

Mr. CLOUTIER: Exactly.

Mr. LEWIS: You cannot override the deputy head?

Mr. CLOUTIER: Not in this case.

Mr. LEWIS: Not during the probationary period.

Mr. CLOUTIER: Yes, that is right.

(Translation)

Senator DESCHATELETS: There may be minor reasons, such as incompatibility, let us say

Mr. CLOUTIER: Possibly.

Senator DESCHATELETS: It could be for more fundamental reasons, but it is important in these cases to give some discretion to the Commission so that it can act in the best interests of all concerned.

(English)

Mr. KNOWLES: It is now clear from this re-wording—and I am thinking back to the discussion we had the other day—that in the case of a new employee from outside who is recommended and given his first probation, if he fails in the view of the deputy head, he is out and there is no binding obligation on the commission to do anything about it?

Mr. CLOUTIER: That is right.

Mr. KNOWLES: But in the case of an employee who was promoted from within the service, whether it was a one year employee or a fifteen year employee, if he fails to measure up to the responsibilities of the new job in the opinion of the deputy head, he is out but the commission is obligated to—

Mr. CLOUTIER: To put him on an appropriate eligible list.

Mr. KNOWLES: That is better.

Mr. CLOUTIER: In all fairness, I think I should draw to your attention, Mr. Knowles, that if the reasons for the rejection are such that they would render this individual unfit for service anywhere, then there are no appropriate eligible lists for that kind of individual.

Mr. KNOWLES: But if the commission has recommended that a grade five employee should move up to a grade six position, and then finds out he was not good for anything, something would be fishy. It is not likely to happen, is it?

Mr. CLOUTIER: This points to the humanity in all of us.

Mr. WALKER: I move the amendment.

Mr. CROSSMAN: I second the motion.

Amendment agreed to.

Clause 28, as amended, agreed to.

On Clause 45—*Annual report on operations under Act.*

Mr. CLOUTIER: The amendment under Clause 45, Mr. Chairman, again was suggested by one of the staff associations when they argued that it might make sense for the commission to report to parliament any delegation made to a deputy head but, more important, any revision or amendment or rescinding of that delegation which had to be made by the commission. The amendment would provide for this. If I may read the proposed amendment, Mr. Chairman:

“That Bill C-181 be amended by striking out clause 45 and substituting the following:

45. The Commission shall, within five months after the thirty-first day of December in each year, transmit to the Minister designated by the Governor in Council for the purposes of this section, a report and statement of the transactions and affairs of the Commission during that year, *the nature of any action taken by it under subsection (1) or (4) of section 6,...*

Mr. LEWIS: I think it is (5) now.

Mr. CLOUTIER: We could make that change right away then.

Mr. LEWIS: It should read: ...the nature of any action taken by it under subsection (1) or (4) of section 5.

Mr. CLOUTIER: No, it is still (4), Mr. Lewis. It is still subclause (4). We caught that. The new Clause 6(4) would read:

"The Commission may from time to time as it sees fit revise or rescind and reinstate the authority granted by the subsection.

Mr. LEWIS: (4) has not changed. You have (1), (4) or (5).

Mr. CLOUTIER: Surely you would not want the report from the commission to append the signing authority for each department. What the associations had in mind was this.

Mr. LEWIS: No, it was part of (5) that I was thinking of. What you are now saying, I appreciate fully. I was thinking of the part of subsection (5) which authorizes the deputy head to delegate someone under him in the same way and for the same purposes as the commission delegated authority to him. It seems to me that if you do not think it is too big a task that, too, should be in the report.

Mr. CLOUTIER: It would be a voluminous operation which, I would like to suggest, would accomplish very little.

Mr. LEWIS: Right.

Mr. CLOUTIER: If I may continue then:

... the nature of any action taken by it under subsection (1) or (4) of section 6, and the positions and persons, if any, excluded under section 39 in whole or in part from the operation of this Act and the reasons therefor, and that Minister shall cause the report and statement to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting."

Mr. ÉMARD: I move the amendment.

Mr. BERGER: I second the motion.

Amendment agreed to.

Clause, as amended, agreed to.

Mr. CLOUTIER: Mr. Chairman, that completes that group of amendments which the committee indicated were the last two things they would consider, with the exception of a few amendments dealing with appeal.

The JOINT CHAIRMAN (*Mr. Richard*): That is, clauses 5, 6, 21 and 31.

Mr. CLOUTIER: That is right. I believe it is 5, 6(3), 21 and 31.

The JOINT CHAIRMAN (*Mr. Richard*): That is correct.

Mr. CLOUTIER: In this case also I have ready for the members of the committee a printed text of the proposed amendments. If I may preface the consideration of these amendments, Mr. Chairman, I would like to say that my colleagues and I have examined and considered at length and in depth the arguments made by various members of the committee in relation to the appeal provisions of Bill No. C-181. Also, we have had long discussions, in the light of these representations.

Mr. Chairman, I would like to be very very clear in that we remain unchanged in our conviction that if it is worthwhile to have the merit principle in the public service, then there can be only one custodian of that principle. Indeed, we could not agree with any arrangement whereby appeal under this act, or more particularly, appeals for reasons such as those provided for in clause 21 and 31, would be capable of submission to a board independent from the commission, to a board appointed by the governor in council as has been mentioned in some quarters. Indeed if it were otherwise decided, if it were decided that this is the arrangement that was to prevail, I think, Mr. Chairman, that my colleagues and I would have to re-examine our own position as commissioners in the civil service. I would submit that under such arrangements we would think it extremely difficult for any government to find candidates who would be willing to assume responsibility for the administration of the merit principle in the public service. We simply do not see how the system could make sense. However, as I said, we have examined very very carefully the representations or the suggestions made last Thursday at both sittings of the committee. My suggestion is that the principle—or some of the principles advanced—could be accommodated by giving to the appeal board under the Civil Service Commission the same kind of executory decision making authority as the adjudication boards would have under the bargaining system. In other words, the appeal boards would have the power of making a final and binding decision which would be binding on the parties, binding on the commission as well as on the deputy heads. The unity of administration of the merit principle would be conserved by the commission having the authority to establish these appeal boards.

Mr. Chairman, we would be in agreement with amendments to clauses 5, 21 and 31 such as the members now have before them that would give a statutory basis to the situation that I have just outlined. If I may read the three amendments for the record, the first one is:

that Bill C-181 be amended by re-lettering paragraphs (d) and (e) of clause 5—

—which, incidentally, Mr. Chairman is the clause that provides for the general powers and duties of the commission and which puts an obligation on the commission—

—as paragraphs (e) and (f) respectively, and by inserting the following as paragraph (d):

“(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6 and to render decisions on appeals made to such boards under sections 21 and 31.”

The reference, of course, to clause 6 will not go unnoticed by Mr. Lewis.

The next amendment reads as follows:

that Bill C-181 be amended by striking out all that portion of clause 21 following paragraph (b) thereof and substituting the following:

“may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of

being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment, accordingly as the decision of the board requires."

The other amendment, Mr. Chairman, would read:

that Bill C-181 be amended by renumbering subclauses (4) and (5) of clause 31 as subclauses (5) and (6) respectively, and by substituting for subclause (3) of clause 31 the following subclause;

"*Right to appeal.* (3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the employee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(a) notify the deputy head concerned that his recommendation will not be acted upon, or

(b) appoint the employee to a position at a lower maximum rate of pay, or release the employee, accordingly as the decision of the board requires."

Mr. KNOWLES: Mr. Chairman, on looking up the amendment that you have just read, you would substitute this new subclause for the old (3); then you renumber the present (4) and (5) as (5) and (6); you seem to me to leave a vacuum.

Mr. CLOUTIER: Oh, I am very sorry, Mr. Knowles. Earlier this morning there were two subclauses where there is now only one subclause. So, actually the introduction of this amendment should read:

that Bill C-181 be amended by substituting for subclause (3) of clause 31 the following. . .

Mr. KNOWLES: Now you arouse my curiosity as to what (4) was that you did not bring with you.

Mr. CLOUTIER: Well, actually at an early stage of the drafting process, paragraphs (a) and (b) were in a subclause which we had called (4).

(Translation)

Mr. ÉMARD: I do not understand exactly, Mr. Chairman, what changes there are in the amendments being submitted now and the ones that are here. Could you explain briefly what they are?

Mr. CLOUTIER: Briefly, Mr. Émard, here they are. First of all, in clauses 21 and 31 as printed in Bill C-181, there was no mention made of representatives of the employees. These amendment that we are now speaking of provide that employees can be represented in an appeal. Secondly, if I understood the discussion

which occurred last Thursday correctly, some members of the Committee suggested that it might perhaps be desirable to make a distinction between the Commission as a statutory body, if you wish, which on the one hand, makes appointments and on the other hand, must receive appeals. If you will notice clauses 21 and 31 as they appear in Bill C-181, these provide that appeals must be presented to the Commission and indicate also that a report on the inquiry must be made, and forwarded to the Commission which in turn, renders the decision. If I interpreted the comments of several members of the Committee last Thursday correctly, we deemed advisable or desirable to provide an arrangement by which appeals would be made directly to the Appeal Board and that the decisions of the Appeal Board would then be final and binding.

Mr. ÉMARD: The last line on pages 2 and 3,

Mr. CLOUTIER: This is what makes it binding. If the Appeal Board says, for instance, that the appeal must be granted.

Mr. ÉMARD: Oh, now, I understand.

(English)

Mr. WALKER: Mr. Chairman, I want to thank those of the commission who consulted among themselves before bringing forward what I consider to be an excellent amendment. This had given me some concern at the previous meetings. I felt it was very necessary to establish the Appeal Board as a board at arm's length to the commission so that the employees would not feel that in fact their appeals, even though handled by a board, were finally being decided by the commission, and I think this amendment effects this.

Mr. LEWIS: The basic change that you have made really, is that you make the board a statutory body.

Mr. CLOUTIER: And their decision is binding.

Mr. LEWIS: And their decision is binding.

Mr. CLOUTIER: In other words, they have exactly the same statutory existence and statutory authority as the adjudicator would have under the grievance process.

Mr. LEWIS: May I point out, Mr. Cloutier that it seems to me that Subclause (4) of clause 31 ought also to be amended. And then I have another question to ask you. If no appeal is taken to the commission.

Mr. CLOUTIER: Yes.

Mr. LEWIS: Are we not trying to get away from the notion that the appeal is taken to the commission.

Mr. CLOUTIER: Oh, I am sorry.

Mr. LEWIS: "—if no appeal is taken under subclause (3) or something like that, or if no appeal is taken.

Mr. CLOUTIER: If no appeal is made—

Mr. LEWIS: Take out the words "to the commission"; that is what I would like to see. I would like to see the subclause read, "If no appeal is taken under sub-section (3)" or you can say, "If no appeal is made against the recommendation of the deputy head". I will move that, if I may Mr. Chairman as part of the amendment before you. Do you want me to write it out? It is very short.

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. LEWIS: Can I just give it to the clerk on the same page as clause 31 is dealt with, and after what is there you add, subclause (4) be amended by deleting the words "taken to the commission" and substituting therefor the word "made". And I so move.

Mr. WALKER: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): It has been moved by Mr. Lewis, seconded by Mr. Walker, that subclause (4) of clause 31 be amended by deleting the words "taken to the commission" in line 21 and inserting the word "made" after the word "is".

Motion agreed to.

Mr. LEWIS: On a subsection that is not dealt with in the amendment the word "skill" gives me concern. That is in subclause (b) of clause 21. I do not know whether you want to take these each separately. I will wait if you wish, but if not I will raise it now.

The JOINT CHAIRMAN (*Mr. Richard*): That is clause 5, is it?

Mr. LEWIS: No, clause 21 of the amendments. I can wait until you get to clause 21, if you wish.

The JOINT CHAIRMAN (*Mr. Richard*): We will take clause 5 first.

On clause 5—*Powers and duties*.

Mr. WALKER: I move that clause 5 be amended as per the attached draft in the hands of the committee.

Senator MACKENZIE: I second the motion.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 21—*Appeals*.

Mr. LEWIS: I would like to know why you need the words in (b) of clause 21 "... in the opinion of the Commission ..." It reads: "... every person whose opportunity for advancement, in the opinion of the Commission, has been prejudicially affected..." may make an appeal.

Mr. CLOUTIER: This is essential for delineation purposes. If I am holding a competition for, say, Level 10, the Commission, by another section—and I do not know whether I can put my finger on it.

Mr. LEWIS: I remember what it said, and that is why I am asking the question. It says, "that the Commission may determine the field of competition and determine the area within which..." Therefore I would read these words to mean that within that area—because it cannot be any other area—designated by the Commission for the competition, or if it is without competition. This is no competition at all.

Mr. CLOUTIER: That is right. If there is no competition that wording is there to ensure that if a competition had been held then the area from which appellants may come would be the area to which the competition would have applied had there been a competition. Coming back to the example that I gave—I forget whether it was last Thursday morning or Thursday evening—the case of the department that had reorganized, we were able through a process that observed

all the competitive elements of a competition but which cut down the time from possibly eight or nine months to about six weeks, to fill about 25 or 30 positions. In this case the examination of all possible candidates was determined in exactly the same way as we would have determined the field of competition. If the position to be filled was at Level 10 then we say that we would entertain applications from everybody at levels 7, 8 and 9; but we would not consider that an appointment made without competition at Level 10 would prejudice the opportunity for advancement of a person who is still at the level 2 or 3.

Mr. LEWIS: I believe I understand that, and I think that perhaps I might even have appreciated it when I asked you the question, Mr. Cloutier. What I am unhappy about is that anything like this should be at the sole discretion of any one body. If I feel aggrieved, why should I not be able to make the appeal—and it may well be that one of the subjects under discussion in the appeal is whether or not I was prejudicially affected. Why should you, before I get to the appeal, decide that I cannot even appeal because you have decided that I am not prejudicially affected. Why do you need that? You could come to the appeal board, which you set up in the next part of section 1. The commission can come to the appeal board, or the deputy head or whoever, and say that we think that this appeal is badly founded because when we invited applications for this job we invited them from such and such classes of employees for these reasons, and if you are right, the board will say, you should not be here.

Mr. CLOUTIER: Actually the employee may still write to the appeals division of the commission and say that he or she wants to appeal; in that case, Mr. Lewis, he would be informed by letter that his appeal is not admissible because he does not come under here. So he would be given the explanation that you are saying he should be given.

Mr. LEWIS: But, suppose he disagrees with your explanation?

Mr. CLOUTIER: If the field of competition is delineated then, it is, black or white whether he is within or without the appeal. Our point is that it is an administrative delay and expense to have the formal appeal machinery consider a case of that sort.

Mr. LEWIS: Mr. Cloutier, I really do appeal to you to give it some thought. You may be entirely right. I think the opposite is also right, that in very rare instances will you find a person in 2 appealing because he was not appointed to a position in 10 or 9. But there may be the occasion—and that is what an appeal tribunal is for—when you make an error, or I think you make an error. You do not have to make it; I just think you made it—I am the employee. Why should you be able to tell me that I cannot even go to the appeal board which you now establish yourselves. I really do not see how this subsection would be any worse if it simply said “without competition, every person whose opportunity for advancement has been prejudicially affected.” Now it is simply a matter of fact whether this job was open to him, whether you invited applications from his class or group whatever it may be, but why should you predetermine his right to appeal.

Mr. CLOUTIER: Because we are in a position to predetermine whether he is a logical applicant for that job.

Mr. LEWIS: We are going around in circles, I am afraid, Mr. Cloutier. I do not think the Commission will be hurt in the slightest, and I do not think your administrative machinery is likely to be overlooked if you permit the man the freedom to say, "I am prejudicially affected," instead of taking to yourselves the authority to tell him beforehand that he is not.

Senator MACKENZIE: Who would decide this? Would it be the appeal board?

Mr. LEWIS: Yes.

Senator MACKENZIE: If the applicant were unhappy about the fact that he was not appointed, he would have the right to appeal.

Mr. LEWIS: As I see my suggestion, Mr. Chairman, it is really very simple, if I am an employee and I feel that I have been prejudicially affected by some other appointment, I write and make the appeal. Mr. Cloutier or someone in the office of the commission, can still, administratively, write me and tell me that in fact I was not open to take that position because of the area that was opened up for that particular position without competition. If I am satisfied, that will end it; if I am not satisfied, why cannot I go to the appeal board and put my case before it?

Mr. CLOUTIER: Because you would be putting a fabulous administrative problem on the hands of the commission. Let me explain. How would one determine and let be known the field of competition?

Mr. LEWIS: This is without competition.

Mr. CLOUTIER: Yes. When we make appointments without competition by the virtue of that wording, we post the proposed appointments and we say these employees within these areas who were considered may now appeal. If there is no determinable area from which potential candidates came, how do we give notice to the people who might want to appeal? Furthermore, once the appointment is made or is about to be made, then you are open to the possibility of scores of appeals which, according to the provisions of this bill, would have to be the subject of formal inquiry—and before we even go to this, we know that the outcome is obvious. Mind you, I do not think the commission can be accused at any time of having restricted the area from which employees may appeal because this is the essence of the merit system. On the other hand, I think it is incumbent on the commission, as the administrator of this system, to administer it with some semblance of efficiency and with some assurance that it is not really overextending the benefits of the merit system.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 21, as amended, moved by Mr. Walker, seconded by Senator Fergusson—

Mr. LEWIS: Well, on Clause 21, Mr. Chairman, I want to move the amendment that I have been arguing with Mr. Cloutier about, and put it to the committee. I just do not like leaving that kind of decision in the hands of anybody.

The JOINT CHAIRMAN (*Mr. Richard*): Make a motion, Mr. Lewis.

Mr. LEWIS: I want to move that the words, "in the opinion of the commission" and the commas before and after those words in subclause (b), lines 21 and 22, be deleted.

Senator MACKENZIE: Again, Mr. Chairman, I would like to ask Mr. Lewis as to who would decide the person had been prejudicially affected.

Mr. LEWIS: The appeal board.

Mr. McCLEAVE: And who had the opportunity for advancement.

Senator MACKENZIE: In other words, any individual who has the opportunity for advancement and did not get it, would have the right to appeal. Is that it?

Mr. LEWIS: That is it, except that I do not think, despite Mr. Cloutier's fears, that anyone in the service who was not within the area from which the commission invited applications is likely to take this appeal. But there is such a person, or if there is a person in the area—you see, this language is not limited to any area from which applicants are invited, it simply says any person—and it may, conceivably, so far as the language is concerned, be a person within the area whose opportunity for advancement has been prejudicially affected—can appeal only if, in the opinion of the commission, his opportunity for advancement has been prejudicially affected. I cannot for the life of me see why the commission should have the authority to predetermine this point. It may well be the point of grievance. I see no reason I should not be able to go to an appeal and say, my opportunity for advancement has been prejudicially affected, if the answer is, that it is not because this job was not open to me in the first place, then that is the answer. Then the appeal board will hear it.

Mr. WALKER: Mr. Chairman, I will support the fear of establishment problems expressed by Mr. Cloutier rather than the fears expressed by Mr. Lewis in his amendment.

The JOINT CHAIRMAN (*Mr. Richard*): The motion made by Mr. Lewis, seconded by Mr. Knowles moves that clause 21, subclause (b), lines 21 and 22, the words "in the opinion of the Commission" and the commas before and after that part of the sentence be deleted. All those in favour of the amendment?

All those against? I declare the motion lost.

Shall clause 21 as amended, moved by Mr. Walker, seconded by Senator MacKenzie carry?

Clause 21, as amended, agreed to.

On clause 31—*Recommendation to Commission*.

Mr. WALKER: I move that clause 31, as amended, carry.

Senator MACKENZIE: I second the motion.

Mr. LEWIS: Amendment 4, as well?

An hon. MEMBER: We already have carried that.

Clause 31, as amended, agreed to.

Mr. WALKER: Mr. Chairman, may I point out, unless I am wrong, we have yet to deal with clause 6, subclause (3).

The JOINT CHAIRMAN (*Mr. Richard*): That amendment was circulated earlier.

On clause 6(3)—*Delegation to Deputy Head*.

Mr. CLOUTIER: This is the same principle as embodied in the new clauses 21 and 31. The sole difference is that the initiative in these instances does not rest with the employees but with the commission to ask its appeal officers to investigate the situation and report to them. But here again, the wording of the clause is that the Commission shall act on the recommendation and according to the recommendation of the appeal board.

Mr. WALKER: I move the amendment.

Senator MACKENZIE: I second the motion.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): That leaves clause 34(1)(c). I think it was Mr. Knowles who made some comments on this.

Mr. KNOWLES: It is a cross-reference to clause 32.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 35(1) was stood the other night.

Mr. KNOWLES: It was a cross-reference to clause 39.

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes. Clauses 39 and 35(1) can carry now.

Clause 39 agreed to.

Clause 35(1) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now there is only one clause left.

Mr. KNOWLES: There are 32, 34(c) and the title.

The JOINT CHAIRMAN (*Mr. Richard*): It is ten o'clock. We will have another meeting.

Mr. KNOWLES: When we get to clause 1, Mr. Chairman, I am going to propose, in order to simplify it, that it be cited as the Public Service Act. We have been used to the Civil Service Act as long as we have lived, and I think this Public Service Employment Act already confuses people like Jim Walker and others around the place.

The JOINT CHAIRMAN (*Mr. Richard*): We will adjourn until Thursday morning at ten o'clock, when we will try to finish this bill. I do not necessarily wish the committee to delay the matters pertaining to clause 32—

Mr. KNOWLES: Because it is in the other act as well.

The JOINT CHAIRMAN (*Mr. Richard*): —until we have disposed of all the bills.

Mr. WALKER: Mr. Chairman, I have just had word that Dr. Davidson will not be available Thursday morning, but that he will be Thursday night. I wonder if we could not have a useful discussion on Thursday morning about clause 32.

Mr. ÉMARD: You mentioned Thursday night. We do not sit this Friday.

The JOINT CHAIRMAN (*Mr. Richard*): We may close early.

Mr. WALKER: I regret to say that if Dr. Davidson is required for the next bill, he will not be available Thursday morning.

Mr. BELL (*Carleton*): I think it would be more useful if we could have some informal discussions on draft clause 32. I hope perhaps Mr. Walker could come up with some suggestions.

Mr. WALKER: If I suggest Thursday morning, will the committee meet?

Mr. BELL (*Carleton*): Of course the committee will meet, but I think that we would get farther if we had some preliminary informal discussions in relation to that clause.

Mr. WALKER: All right then; we will do it Thursday morning.

Mr. LEWIS: This is as good a time to deal with it as when it appears in another bill.

The JOINT CHAIRMAN (*Mr. Richard*): Well, I had that in mind, and we could discuss it. I have another suggestion. If the committee would rather meet informally on Thursday morning, it might be a much more useful discussion.

Mr. LEWIS: I am a junior member.

The JOINT CHAIRMAN (*Mr. Richard*): Well, I do not agree with that; you are only trying to give that appearance.

Mr. LEWIS: I am trying to give the opposite appearance.

The JOINT CHAIRMAN (*Mr. Richard*): You understand me very well. Since this would be a discussion and no evidence would be presented by witnesses, I think this is a matter that could be discussed informally amongst the members without any reporting. If you want it in camera—I do not like the word—we can do it that way.

Mr. LEWIS: It is more than that; there will not be any record.

The JOINT CHAIRMAN (*Mr. Richard*): That is it, without record. Since Mr. Cloutier will not be with us on Thursday, since this will be a closed meeting, he would like to make a statement.

Mr. CLOUTIER: Mr. Chairman, it relates to a task that the committee charged the commission with sometime ago, and in response to which the commission had presented to the committee a memorandum. As I recall the request that was made of the Commission, it was to examine practices in other jurisdiction and present to the committee ideas as to arrangements that might work in the public service of Canada. I would like the record to be very clear, Mr. Chairman, that the memorandum that was circulated to the committee from the Commission was prepared in response to this request and in no way represents a recommendation from the Commission. I would like to make this point clear because in some news media we were reported as having made recommendations on—again, to be very proper, I will just use the title that appears in the act—political partisanship. We have not made recommendations to the committee. We have tried to give the sort of information to the committee that it requested, and in no manner does the Commission consider itself qualified, competent or otherwise to express opinions on political activities or the lack thereof on the part of public servants.

Mr. KNOWLES: You have been misquoted in the press; that makes you a member of the club.

The JOINT CHAIRMAN (*Mr. Richard*): We will meet on Thursday morning, right here.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 18

THURSDAY, NOVEMBER 17, 1966

Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board*; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*), Mr. Ballard,
Mr. Cameron, Mr. Bell (*Carleton*),
Mr. Choquette, Mr. Berger,
Mr. Davey, Mr. Chatterton,
Mr. Denis, Mr. Chatwood,
Mr. Deschatelets, Mr. Crossman,
Mrs. Fergusson, Mr. Émard,
Mr. Hastings, Mr. Fairweather,
Mr. MacKenzie, Mr. Hymmen,
Mr. O'Leary (*Antigonish-Guysborough*), Mr. Isabelle,
Mrs. Quart—(12). Mr. Knowles,

(Quorum 10)

Representing the House of Commons

Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
²Mr. Madill,
Mr. McCleave,
³Mr. Orange,
Mr. Rochon,
¹Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—(24).

¹ Replaced Mr. Keays on November 10, 1966.

² Replaced Mr. Ricard on November 10, 1966.

³ Replaced Mr. Munro on November 15, 1966.

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(House of Commons)

THURSDAY, November 10, 1966.

Ordered,—That the names of Messrs. Sherman and Madill be substituted for those of Messrs. Keays and Ricard on the Special Joint Committee on the Public Service.

TUESDAY, November 15, 1966.

Ordered,—That the name of Mr. Orange be substituted for that of Mr. Munro on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, November 17, 1966.
(32)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 11.07 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Deschatelets, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (Carleton), Chatterton, Émard, Hymmen, Knowles, Lachance, McCleave, Orange, Richard, Walker (10).

Also present: Mr. Pugh.

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. MacLeod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee began its clause by clause consideration of Bill C-170.

On a suggestion by the Secretary of the Treasury Board, the Committee decided to consider en bloc the following clauses:

Interpretation—Clause 2;

Application—Clauses 3 to 5 inclusive and 113;

Basic Rights and Prohibitions—Clauses 6 to 10 inclusive, 20, 21 and 106;

Public Service Staff Relations Board—Clauses 11 to 25 inclusive;

Commencement of Collective Bargaining—Clause 26;

Certification and Revocation—Clauses 27 to 48 inclusive;

Negotiation of Collective Agreements—Clauses 49 to 58 inclusive;

Dispute Settlement—Clauses 59 to 89 and 101 to 105 inclusive;

Grievances—Clauses 90 to 99 inclusive;

Miscellaneous items—Clauses 100 to 116 inclusive.

Clause 1 was allowed to stand.

At 12.45 p.m., the discussion of Clause 2 ensuing, the meeting adjourned to 8.00 p.m. this day.

EVENING SITTING

(33)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.23 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Deschatelets (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Hymmen, Knowles, Lachance, McCleave, Richard, Tardif, Walker (9).

Also present: Hon. Mr. Pennell.

In attendance: (As for morning sitting).

The Committee allowed Clause 2 to stand. A Chart used in the discussion of Clause 2 to illustrate "*Application*" was accepted by the Committee as an appendix to this day's proceedings. (*See Appendix R*)

Clause 3, carried.

Clause 4, carried.

Clause 5, carried.

At 9.52 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 17, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we will take up Bill No. C-170, an act respecting employer and employee relations in the Public Service of Canada.

Before we proceed with the examination of the sections, I would like to ask Dr. Davidson to make any statement which he deems useful at the present time.

Dr. George F. DAVIDSON (*Secretary of the Treasury Board*): Thank you, Mr. Chairman. I hope the Committee will accept my expression of regret that I had to inconvenience them this morning. Unfortunately, by the time I received notice of the meeting I had already made inescapable commitments which I had to carry out. I hope it was not too inconvenient for members of the Committee that the meeting was set for 11 o'clock rather than 10 o'clock this morning. You may have also heard through the secretary, Mr. Chairman, that if the Committee wish, we will be glad to make ourselves available for a meeting this evening.

We have a regular meeting of the Treasury Board this afternoon therefore I think it would be difficult for us to be here at that time.

The JOINT CHAIRMAN (*Mr. Richard*): I think that will suit the Committee.

Mr. DAVIDSON: The members of the Committee may recall that when I appeared before the Committee on the most recent occasion I concluded my remarks by suggesting, for the consideration of the Committee, a method by which we might proceed with the consideration of Bill C-170. I propose to repeat that proposal and to make only one change in the suggestion I made at that time.

You will recall that I indicated that we propose, with the Committee's consent, to give the Committee an outline of the blocks of sections of the bill that we thought we could consider one after the other. It is our intention to make an introductory statement preceding the discussion of each block of sections following any question the members of the Committee might wish to pose, after which we could then proceed to deal with each of the individual sections in the block under discussion. I also suggest at that time we leave aside, for the time being, discussion of clause 2 of the act, which has to do with interpretation. At this time I suggest, contrary to my previous proposal, that it might be useful for the Committee to give consideration from the outset to the definitions at least to the extent of running through them and familiarizing ourselves with them, so that as we proceed to the later sections we will have some familiarity, at least, with the main definitions.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me, Dr. Davidson, you are suggesting that we consider them without necessarily going through the passage of a clause.

Mr. DAVIDSON: Correct, Mr. Chairman, and I also think that it may be necessary, as we begin to delve into the definitions, to suggest from time to time, if we are getting too deeply into the substance of the definition that we refer further consideration of it until we come to the sections of the act to which that definition pertains. I suggest that it would be worth the while of the Committee to spend the greater part of this morning running through the definitions set out in section 2 so we will have a general idea of how they relate one to the other.

Assuming that that would be agreeable to the Committee, we would then proceed to deal with the following groups of sections block by block. I will put these on the record, Mr. Chairman, so that members of the Committee may pick them up from the record of today's proceedings.

The first group of clauses following clause 2 that we propose to deal with is the group coming under the heading "Application", this includes clauses 3 to 5 inclusive of the bill as well as clause 113.

The second block of clauses we will deal with is under the heading "Basic Rights and Prohibitions", included in this block will be clauses 6 to 10 inclusive and clauses 202 and 106.

The third block of clauses will have to do with the Public Service staff Relations Board; this covers clauses 11 to 25 inclusive.

The fourth block of clauses consists of clause 26 alone, dealing with the commencement of collective bargaining. This is an important and complicated and difficult one and we will have some changes to suggest to members of the Committee when we get to that particular clause.

The next block of clauses has to do with problems relating to certification and revocation; clauses 27 to 40 inclusive cover this block.

The next block has to do with the negotiation of collective agreements; clauses 49 to 58 deal with this.

I think there is something wrong, Mr. Chairman: I will ask the Committee to go back for a moment and correct my reference to clauses 27 to 40 so that it will read clauses 27 to 48 inclusive.

Block six the negotiation of collective agreements, will include clauses 49 to 58 inclusive.

The dispute settlement processes envisaged in the act are covered by clauses 59 to 89 inclusive and clauses 101 to 105 inclusive.

The problems of grievances and grievance adjudication are dealt with in block number eight, clauses 90 to 99 inclusive.

Finally, there is a miscellaneous group of clauses at the end of the bill covered by clauses 100 to 116, with the exception of a number of specific references that will already have been dealt with in previous discussions. In all, Mr. Chairman, we will have nine separate blocks.

Mr. ÉMARD: Could you repeat number eight please, from clause 90 to what?

Mr. DAVIDSON: From 90 to 99, sir. Mr. Chairman, this would mean, if the Committee agrees, that we would have a discussion first of all on the interpretation section and the definitions contained therein. We would then proceed to break up the further discussion of the contents of the bill into nine discussions within the total discussion, and at the beginning of each of those nine presentations I would make an introductory statement explaining the basic outline of the

proposals contained in the section after which we could proceed to questions in a clause by clause discussion.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure the Committee will agree that that is a very good way to proceed. Your intention this morning is to proceed with clause 2?

Mr. DAVIDSON: If that is agreeable.

The JOINT CHAIRMAN (*Mr. Richard*): I will call clause 2.

Mr. BELL (*Carleton*): Before we reach clause 2, Mr. Chairman, I think we should deal with one or two matters on the general policy of the act which is not really covered in this. For example, there have been very strong representations made that the procedure ought to be by way of amendment to the I.R.D.I. act, and I think we should settle that before we get into any particular discussion. I believe there might be a great deal to commend itself by way of amendment to the Industrial Relations and Disputes Investigation Act, rather than through this very cumbersome bill. If the I.R.D.I. act were amended so it properly protected the merit system, I think it might easily be a superior technique. I do not know whether any other members of the Committee share that view, but I think it is something that we should at least clear out of the way.

Mr. KNOWLES: You you know very well that there are other members of the Committee that share that view. In addition to that, I think there is another alternative that should be considered, and that is whether we adopt Bill No. C-170 for some portions of the Civil Service, mainly those who want it, but adopt a modified form of it, or the I.R.D.I. act, for those who prefer to be in that. I agree with Mr. Bell, in fact I think we agreed to this in the steering committee that at some point we should have this kind of a general discussion. Whether we have it now on clause 2 or whether we have it when we get back to clause 1, I think—

Mr. BELL (*Carleton*): Surely there is no use going ahead with all the detail clauses if there is a chance we might discard the bill completely.

Mr. CHATTERTON: Mr. Chairman, I am sorry to disagree with my colleague. I agree with him in so far as the possibilities of the I.R.D.I. act are concerned, but I think by going through this bill first it would give me, in any case, a better understanding of what the bill actually provides. I have gone through the bill and there are many parts of the proposal that are not too clear to me, and I am wondering if it would not be better to first clear our own minds on exactly what this bill provides before we go into the other act. I certainly agree with him as to the possibility of the other act. It is just a question of procedure on which I tend to differ with him.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Émard.

(*Translation*)

Mr. ÉMARD: I think that in spite of all the things that I have against it, Bill C-170 is still the best for employees of the Public Service. I am sure we will be able to give arguments during the coming sittings in Committee. We must, however, consider that employees of the Public Service have had the opportunity

of seeing and studying what was going on elsewhere in various countries. It is rather rare in different countries, even those which are the best organized from a labour point of view, to have special considerations for public servants. I think that we surely should begin with Bill C-170, and then after that we could hear some arguments relative to the Industrial Relations and Disputes Investigations Act.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. WALKER: Mr. Émard has expressed my views eloquently.

Mr. KNOWLES: Mr. Chairman, I am prepared to go along with this view, and I think Mr. Bell probably is too, that maybe we can look and see what improvements can be made in this before we go at the other issue, provided it is clear that at some point we will have the right to discuss alternative methods to the one that the government proposes, namely Bill No. C-170. The two alternative methods, or the two other choices, are the I.R.D.I. act be amended instead of this or we have a combination of this for some of the service and the I.R.D.I. act for the other.

The JOINT CHAIRMAN (*Mr. Richard*): Your two alternatives, Mr. Knowles, are either to amend the bill or reject it completely, because we are not amending the I.R.D.I. act here. It is not our mission to do so.

Mr. KNOWLES: No, but we have the right as a committee to make a report to parliament and we could recommend, just as I think we are going to recommend something about parliament hill. All I am asking at the moment is that it be clear that at some point we will have the right to have that kind of a discussion. As far as I am concerned it can be done on clause 1.

The JOINT CHAIRMAN (*Mr. Richard*): I agree it could be done on clause 1 once we have gone through the bill.

Mr. KNOWLES: As long as you agree that we may do it if we wish. I am prepared to wait.

Mr. BELL (*Carleton*): I will go along with that procedure, although it did seem to me that perhaps when there was a possibility of removing this act completely it was better to do it before we got started and spent any time on it.

The JOINT CHAIRMAN (*Mr. Richard*): Do you envisage that possibility, Mr. Bell?

Mr. BELL (*Carleton*): I always envisage all sorts of possibilities.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed then with the examination of Bill No. C-170.

Agreed.

Mr. DAVIDSON: Mr. Chairman, I ask to be forgiven for adding a word, but it might save us a tremendous amount of time on the staff side if the Committee chose to table this decision now.

Mr. WALKER: Mr. Chairman, I think what Dr. Davidson should not feel any less enthusiastic about this bill because of the possibility that Mr. Bell has opened up in his discussion. I certainly do not think it should stop there if we

want to discuss the merit system all over again. I think this committee has had a pretty thorough discussion on this whole basic principle, the denial of which would make this legislation useless, that the base of the necessity of this legislation, rather than amending the I.R.D.I. act, was the preservation and the further blossoming of the merit system in the civil service. We have discussed this many times in relation to a lot of clauses which have come along. We have done this before and I do not mind doing it again. If I felt there was any possibility of Mr. Bell's thought developing to a dangerous extent, then I would suggest we should go through the debate on the merit system again.

Mr. BELL (*Carleton*): The merit system has nothing to do with that.

Mr. WALKER: Certainly in my mind it is firmly established that this legislation is based on the basic principle that in the civil service it is the merit system and the preservation of the merit system which makes this kind of legislation necessary, rather than amending legislation that is used in the private industrial field.

Mr. BELL (*Carleton*): Mr. Chairman, I wonder if Dr. Davidson could explain to me why somebody went to a great deal of trouble to produce this act if the amendment to the I.R.D.I. act would have been just as satisfactory and in a much more compact and brief form?

Mr. WALKER: That is a nice opening, doctor.

Mr. DAVIDSON: I would certainly like to ask myself that question too, if there is a ready answer to it. I could say, however, that we lacked the wisdom and the insight of Mr. Bell and Mr. Knowles in the preparatory committee, because they apparently think they do see how this could be done. I confess that I cannot see how it could be done without rewriting the Industrial Relations and Disputes Investigation Act, to the extent that no matter how you rationalize it you would end up with a completely different piece of legislation and one that would not be the Industrial Relations and Disputes Investigation Act as amended. Rather, it would be a bill which would wipe the Industrial Relations and Disputes Investigation Act out of existence and replace it with something else.

I would, with respect, draw your attention to three or four very obvious points and I would hope that the members of the committee would keep in mind at least these points as well as a good many others as they consider, in the course of the discussions which will follow on a clause by clause basis, the practicability of the suggestion which is now tentatively being put forward.

In the first place, I would suggest with respect that the very name of the legislation would have to be changed. The present legislation on the statute books is the Industrial Relations and Disputes Investigation Act.

Mr. KNOWLES: It has to be changed anyway.

Mr. DAVIDSON: That may be, but I merely point out that if you are going to include, in this legislation that deals with the problems of collective bargaining in the federal service, provision to regulate the bargaining relationships between the Crown in the right of Canada and its employees, it would be—to put it mildly—incongruous in my opinion that you should place the relationships of the Crown with its employees under legislation that was labelled the Industrial Relations and Disputes Investigation Act.

Secondly, I would suggest that you would have to turn your attention to one of the central mechanisms by which the administration of the Industrial Relations and Disputes Investigation Act is carried out. The membership of the Canada Labour Relations Board—which is the body under the I.R.D.I. Act that corresponds to the proposed Public Service Staff Relations Board in the bill before the Committee—contains at the present time, I would suggest, no one on either side of the membership of the board who can be said to represent, in any direct way, the interests of the employees who are members of the public service or the employer interests, as represented by the Crown in the right of Canada.

The membership of the Canada Labour Relations Board is made up of representatives of the employees who, if I am correct in my understanding, are put forward on the nomination of the organized labour groups concerned. On the other hand, the employer interests have been picked to represent the employer interests in the industrial sector of the Canadian economy. It seems to me that it would present very real problems in terms of ensuring adequate representation of either the employer interest—that is to say, the Crown's interest as the employer—or the public service interest. It would require substantial changes, I would suggest, in the membership of the Canada Labour Relations Board if the interests of the employer-employee relationships, in the context of the public service, were not to be lost in the continuing responsibility that the Canada Labour Relations Board has for regulating and administering employer-employee relationships in the industrial sector.

Thirdly, there is the role of the Minister of Labour. I believe Mr. Heeney previously touched upon this point, that the I.R.D.I. Act would have to be re-examined. The Minister of Labour, in the discharge of his role under the Industrial Relations and Disputes Investigation Act, is not a party in any dispute that may arise.

In the case of the disputes that might arise between the Crown as employer and its employees in any collective bargaining framework, the role of the Minister of Labour would certainly be an ambiguous and difficult one. How would you regulate this problem? It seems to me that this would require some pretty careful consideration. Would the Minister of Labour be in a position where he could assert that he was detaching himself completely from his position as a member of the government of Canada, the employer, and acting as a neutral party? Is it suggested that the employee organizations would regard the Minister of Labour as a neutral party in the nomination of the various officers for conciliation and other purposes that the Minister of Labour from time to time in industrial disputes is required to nominate? That is an area that certainly has to be considered.

Reference has been made to the exclusion under this Bill of the whole staffing function in terms of initial appointments, promotions, and so on. Most of these functions which rest with the Civil Service Commission are dealt with in a collective bargaining context under the I.R.D.I. Act. It seems to me that either the role of the Civil Service Commission would have to be changed even further than it has been changed under the proposals now before the Committee or, alternatively, some very special provisions would have to be written into the Industrial Relations and Disputes Investigation Act to safeguard what the parlia-

ment of Canada wishes to safeguard so far as the preservation of the merit system in the recruiting and staffing function is concerned?

Is the Industrial Relations and Disputes Investigation Act going to have written into it a complete section dealing with compulsory arbitration? I would remind the Committee, that this is a device for the settlement of disputes which has been requested of the parliament of Canada by organizations representing the majority of the public service. I recognize that compulsory arbitration is not acceptable to a number of the unions of the public service. It is equally not acceptable to the vast majority of trade unions who now come under the Industrial Relations and Disputes Investigation Act. In the judgment of the Committee, would it be feasible or desirable to write into the Industrial Relations and Disputes Investigation Act provisions, with respect to compulsory arbitration, that the community of organized employees now coming under the legislation regard as being, from their point of view, entirely undesirable? Would this be interpreted as the entering wedge by which parliament was trying, first of all, to introduce for the public service, and later for a larger segment of organized labour, the concept of compulsory arbitration in a piece of legislation that trade unions regard as the charter of organized labour so far as matters coming under federal jurisdiction are concerned. I will leave that question with the Committee.

I now leave two final points with the Committee. First, there is the particular problem relating to the safeguarding of the national interest in so far as questions relating to public safety and security within the public service are concerned. It seems to me that these considerations are of a different order from the maintenance of service in an ordinary industrial plant. There is a higher need here to make special safeguards reflecting the responsibility of the government of Canada as such to ensure the safety and security of the public interest.

Certification, if proceeded with under the provisions of the Industrial Relations and Disputes Investigation Act, would require the Canada Labour Relations Board to confront itself, from the moment this act is passed, with a flood of applications from a wide variety of organizations for certification on the basis of rules which are not set out in the Industrial Relations and Disputes Investigation Act. There are no rules set out for the certification of bargaining units there. The matter is left to the Canada Labour Relations Board.

While I would not go so far as to say what Mr. Heeney said, that it would take years and years and years to disentangle the problem of certification of bargaining units if there were not some form of predetermination, I would say that it would take months and months and months, and for large segments of the public service, the result would be, a further delay in according to them, in reality, the collective bargaining rights which the method of initial predetermination of bargaining units is intended to ensure within a minimum period of time under the Public Service Relations Act.

Now, Mr. Chairman, I assure you, I did not come here this morning prepared to give you all of the questions with which I think the members of the Committee would have to grapple, if several weeks from now they decided they were going to reject this piece of legislation and turn their attention to the problem of substituting an alternative bill. Any such bill would—I repeat again—have to rewrite the present federal charter for organized labour and rewrite it in a

context which would, in addition to bringing up to date all the provisions relating to the organization of the relationship between employer and employee in the industrial setting, have to also include very special provisions, I think everyone would agree, to cover the variety of different circumstances that it is necessary to include in the legislation if the interests of the public servants of Canada as expressed by themselves, are to be adequately protected under the new legislation that we are intending to provide for them. I would be surprised if these questions can be answered quickly. I would then have time to produce a further series of questions which I think would still have to be dealt with before this proposition would become a feasible one.

Senator MACKENZIE: May I ask Mr. Bell through you, Mr. Chairman, whether it—I know Mr. Bell is a very able, energetic and busy person—was because the labour of going through this long, complicated bill might be shortened that he is proposing to substitute for it the Industrial Relations and Disputes Investigation Act, or whether there is a basic reason?

Mr. BELL (*Carleton*): I am simply dealing with the fact that many national organizations have come before this Committee and have made very strong representations to this effect which, for the moment, I was not adopting particularly, I was saying we should settle which avenue we are going to follow.

Senator MACKENZIE: Were they public service organizations or—

Mr. BELL (*Carleton*): Some public service organizations and some not. But when you get the Canadian Labour Congress taking the position they do, I think this Committee has to take it very seriously. I think the views of the Canadian Union of Postal Workers and the Letter Carriers Union have to be given consideration, and they must be set across from the views which Mr. Heeney, and now Dr. Davidson, have expressed to the Committee. I was only saying that I thought this was basic and ought to be decided before we undertook the bill. I thought that we had agreed that we would take the other course, and now we have gone back to argue it and Dr. Davidson has expressed his views with his usual eloquence and vigor. You determined earlier, Mr. Chairman, that we would reserve this matter to give ourselves the opportunity to analyze Dr. Davidson's views and give organizations who feel very strongly about it the opportunity to analyze the views that have been expressed by Dr. Davidson.

Mr. KNOWLES: I think one or two further questions should be put to Dr. Davidson and I also think, in view of what he has said, that one or two further comments should be allowed. May I pick up the terms of the questions Senator MacKenzie asked Mr. Bell and say that I think there is something basic about all of this, and with great respect to my friend, Dr. Davidson, I think that though he has given us a multiplicity of problems and questions he has not dealt with the fundamental problem. Having said that, I must say what the fundamental problem is, and let me put it this way: When the Industrial Relations and Disputes Investigation Act was drafted, it was drafted by a government which was a third party to disputes between two other parties. Therefore, it was in the position of trying to draft legislation that would put those other two parties on a basis of equality.

When the government of Canada drafts this bill, it is drafting a bill for relationships between itself and its employees, and with all the will in the world,

I do not think that the government has succeeded in developing the pattern of equality, or developing the objectivity, with respect to the relationships between itself and its employees, that it has developed with respect to relations between two other parties. And when we are asking for the Industrial Relations and Disputes Investigation Act to be applied, or for a modification of it to be applied, we are asking for that other principle.

Dr. Davidson says there are problems such as the name. I have thought for years that the name should be changed. It is too clumsy a group of words. Surely it is the Canada labour relations act, or something of that sort. Dr. Davidson says there are problems about the membership. Of course there are problems, and either it would have to be changed, or through all of this we set up a parallel act for civil servants, but with emphasis on the parallelism, so that there are parallels of principle with the other act. The role of Minister of Labour I certainly think would have to be looked at.

Starting functions and Compulsory arbitration: Dr. Davidson does not go quite as far, I think, as Mr. Heeney did on this, but Mr. Heeney seems to take this as the final answer. There is compulsory arbitration in this Bill No. C-170. There is not compulsory arbitration in the other bill. That is precisely the reason that some of us, and some of those who have been here, do not like this bill. It is because it does have compulsory arbitration in it. We think that the safeguarding of the national interest is something that applies, not just in a particular civil service group is having a dispute with its employer, but that it applies if the railroad workers of Canada are having a dispute. The national interest is there.

I just do not think there is yet the gulf between the two relations that Dr. Davidson suggests. I think that they are much closer together. They are employer, employee relationships, and I think that the principles that we seek to apply to other parties out there, when we say "you shall sit at the table on equal terms" should be made to apply in this relationship. This is where I think Bill No. C-170 does not measure up to the terms of the Canada labour relations act, if I may call it by a more euphonious name.

I readily recognize that, rather than just applying the other act as is, it might be better to draw a new act which is parallel to the I.R.D.I Act, though the other has been done. I mean there are jurisdictions. Saskatchewan is one that comes to mind, where the Trade Union Act covers employees of the Crown as it covers employees in the private sector; so that it can be done. But I just do not feel that Dr. Davidson has successfully dismissed the idea of using the principles and the spirit of the other act in this relationship by citing these various difficulties.

Now, through most of the discussions that we have had—I seem to be in the position of letting Mr. Bell take the extremely radical position, and I am the moderate around here—I have admitted that the majority of civil servants do seem satisfied with Bill No. C-170, even satisfied with compulsory arbitration. Dr. Davidson says that some of them are actually asking for it. But I ask members of this committee to admit that there are sections of the public service that do not like this, that want the other. This is my further question Dr. Davidson: what—

Mr. WALKER: Might I have the choice—

Mr. KNOWLES: Listen, Mr. Walker.

Mr. WALKER: Yes, Mr. Knowles.

Mr. KNOWLES: The choice that presumably they have within this legislation is, in my view, a deceptive one. You have the choice of a collective bargain as conciliation on the right to strike, rather than compulsory arbitration, only if you make your choice before you are certified.

Dr. DAVIDSON: Could I interject? There is more choice here than there is in the I.R.D.I. Act.

Mr. KNOWLES: Yes, but the—

Dr. DAVIDSON: There is no choice at all in the I.R.D.I. Act.

Mr. KNOWLES: But there is no compulsory arbitration in the I.R.D.I. Act.

Dr. DAVIDSON: There is no compulsory arbitration here except for those employees who demand it and invoke it.

Mr. KNOWLES: But let me continue, that it is a choice within the terms of this act; it is not a choice to have the provisions of this act, or to have the provisions of the other. I have pressed this before, and it is on the record. I think, at some point, that there is a practical proposition which we are going to have to face. I am prepared to go along with Dick Bell and say "Let us have a vote in this committee on whether we take the other instead of this", but in practical terms, I think that the proposition that we have to face up to whether or not the thing for us to do is to have this bill, improved as Dr. Davidson will improve it, for the civil servants who want it, but to have something like the I.R.D.I. Act for those civil servants who want that.

I mean we are all rejoicing yesterday and today over the settlement of the postal workers dispute. But I emphasize the fact that one of the terms of that settlement is that the postal workers will not strike now, or cause any more trouble now. They are looking forward to the day when they reach a collective agreement. Now, if we hand them a method of attaining a collective agreement which is not satisfactory to them we may storing up more trouble in the future. And I think it is for those people that we should take a better look than we have at the possibilities of having the other system. In other words, unless Dr. Davidson can persuade me otherwise in this clause-by-clause discussion, I have come down for two systems of collective bargaining—for the type that is in Bill No. C-170, for the majority of civil servants who want it but for the type of collective bargaining within the I.R.D.I. Act for the civil servants who want that type.

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Orange.

Mr. ORANGE: Mr. Chairman, Mr. Bell raised a point earlier on how we are to proceed, and I am afraid that somehow or other we have done what we agreed not to do. I think we should get back to the original question of how we are to proceed. Are we to look at Bill No. 170 clause by clause, or are we to talk in terms of the general philosophy of the I.R.D.I. Act versus this Bill No. C-170? At the moment we are discussing the I.R.D.I. Act with relation to how it might be applied in the event that Bill No. C-170 was not satisfactory.

(Translation)

Mr. ÉMARD: Mr. Chairman, I think that there is a basic difference which was not expressed in our discussion this morning. That is the fact that Bill C-170 is based on the merit system covered in Bill C-181. Whereas in the I.R.D.I. Act, what prevails is seniority. This is a basic difference, which would cause a great many problems because we do not think in the same way at all: in industry and unions, seniority prevails. In industrial unions, in a great many classifications and a great many groups it is strictly seniority; but you do not find this in government. I think that there are so many changes which would have to be made to the Industrial Relations and Disputes Investigation Act that when we were finished, we would then have another Bill which resembles approximately what we have here in Bill C-170.

The JOINT CHAIRMAN (*Senator Bourget*): I do not want to prolong this discussion. The decision of the committee was that we should go on with the clause-by-clause consideration of the bill, and in the process and sense of educating myself I was going to put a question to Mr. Knowles or to Mr. Bell—I will put it to both of them: Mr. Knowles mentioned the fact that the postal workers have accepted what might be called an interim agreement, or arrangement, to postpone striking, on the assumption and understanding that in due course they will get collective bargaining with the right to strike. If you would like a philosophical question, Mr. Knowles, is there any sense, any substance, any reality in trying to think about and discuss and consider here, or in some other forum, the possibilities of reaching the objectives and goals of labour without strikes? I think we are entering a period in our society when more and more people are reaching the conclusion that strikes are out-of-date; that they are wasteful; that they are harmful to the working force as well as to management, but in particular to the general public, who are in a defenceless position, not being a party to the dispute at all.

I know why strikes came into existence, and I know something of the purposes that they have served. They were, I think, necessary and inevitable, and right and proper, but I would like to hope that we are progressing to a stage of our labour relations in which some other substitutes can be found to ensure that employees are given justice, and a share in the productivity of this country and the community, without the wasteful process of striking, particularly at the expense of and inconvenience to the public generally.

Mr. Knowles and Mr. Bell may feel that this takes us far outside the area of discussion, so we can talk about it tonight, or some other time. It is a matter which has been giving me increasing concern over the past few years.

Mr. KNOWLES: Can I try my hand at answering you in half a sentence? I agree that we should try to find a better way, but I do not agree to what we now have being taken away before the better way has been found.

The JOINT CHAIRMAN (*Mr. Richard*): May I say that this Committee was requested to study a bill which was adopted in principle in the House, Bill No. C-170, and I think it is our responsibility to study it.

I think it is clear there is confusion here on the purpose of introducing this discussion on the Industrial Relations and Disputes Investigation Act. I think the real purpose is to show that in the consideration of the clauses of this bill

later, some members might wish to move amendments, such as to make exceptions to some classes of employees who might want to be under the Industrial Relations and Disputes Investigation Act.

However, at the present time surely our responsibility is to study this act and if, after adopting the clauses as amended or otherwise of this bill, the members of the Committee decide that the amended bill is not satisfactory, that will be the time, when we come to the final consideration of the bill, to say; "No I will not accept this bill even as amended". We are not here to prepare any other legislation, and I think everybody will agree that we should proceed with clause 2 on that understanding. Dr. Davidson?

Mr. DAVIDSON: Mr. Chairman, I shall just run through the definitions as they appear in clause 2, say a word about them if there is a need to do so, and give an opportunity for any questions to be raised?

The first one is "adjudicator", the definition of which is set out in the words before the members of the Committee. I would draw attention to the fact that the function of the adjudicator as set out in clauses 92 to 97 is, in effect, to adjudicate on disagreements that arise, between the parties concerned, on the interpretation of a collective agreement that has already been entered into. That is the principal task of the adjudicator. The adjudicator also has the responsibility of adjusting the disputes between the parties concerned in matters relating to discharge, suspension, financial penalties, and so on. We can come to the substance of this when we come to clauses 92 to 97 which contain the duties and responsibilities of an adjudicator. I will merely add that three kinds of adjudicators are provided for: (1) the chief adjudicator, set up under the act itself, can be resorted to;

(2) a board of adjudication, with representatives of each of the parties concerned in a disagreement, may be established; and

(3) a collective agreement may have written into it provision for the naming of an adjudicator. Whatever the three forms may be, in all cases the function of that adjudicator or adjudication board is the same.

The distinction to be kept in mind here is the difference between arbitration and adjudication. Arbitration is the arbitration of a dispute of interest having to do with the negotiation of a contract, or the renegotiation of a contract, where a dispute has arisen in the process of negotiation or renegotiation. Adjudication has to do with the adjudication of disputes arising over questions of interpretation—matters of right as distinct from matters of interest.

Going on, Mr. Chairman, "arbitral award" is self-explanatory. It is the written award that is made by the arbitration tribunal in respect of a dispute, and we will come to this further in clauses 67 to 76. I do not think there need be any further explanation of that at the present time.

"Arbitration tribunal" means the Public Service Arbitration Tribunal established under clause 60, and I will merely say that the general model followed here is the model of the arbitration tribunal set up under the Whitley Council arbitration agreement of 1923 in the United Kingdom.

The definition of "bargaining agent" is precisely the same as the definition given to "certified bargaining agent" in the Industrial Relations and Disputes Investigation Act.

"Bargaining unit" is defined here as meaning a group of two or more employees that is determined, in accordance with this act, to constitute a unit of employees appropriate for collective bargaining, and the determination, as members know, is the responsibility of the Public Service Staff Relations Board. There is a definition comparable to this in the Ontario legislation, although I understand that the Industrial Relations and Disputes Investigation Act has no definition of "bargaining unit".

The "Board", where referred to, means in all cases the Public Service Staff Relations Board, and I suggest, Mr. Chairman, that the composition of this Board is a matter we can discuss when we come to clauses 11 to 25 where the identity, composition and functions of the Board are set out.

"Chairman" means the chairman of the Public Service Staff Relations Board. You will note that it is capitalized and "chairman", when it is capitalized and stands alone in the bill, always refers to the chairman of the Public Service Staff Relations Board. There is additional reference in the bill elsewhere to the "chairman" (with a small "c") of the arbitration tribunal, but in all cases, the entire expression is used here—the chairman of the arbitration tribunal—and there is, I think, no reason for confusion if it is recognized that there is this distinction between the capitalized "chairman" of the Public Service Staff Relations Board and the other chairman.

Mr. WALKER: I have one question. Is there any other board? Your oral definition is different from the printed one. It just mentions that "chairman" means the chairman of the board.

Mr. DAVIDSON: There is the arbitration tribunal, and there is a board of adjudication which is referred to under "adjudicator" above. It is always written with a small "b" and the full phrase is used. Therefore, when capitalized "c" for "chairman" and capitalized "b" for "board" are used, there can be no doubt about the reference being to the Chairman of the Public Service Staff Relations Board.

"Collective Agreement"—the definition there is in all respects comparable to the definition set out in the I.R.D.I. Act. There is one reference which I think has been the subject of some discussion earlier. The I.R.D.I. Act refers to terms or conditions of employment including provisions with reference to rates of pay and hours of work. It is the view of the law officers who drafted this that the reference here to "provisions respecting terms and conditions of employment and related matters" covers fully all of the matters that are referred to and that there is no legal necessity for a specific reference to be made on provisions relating to rates of pay and hours of work.

"Conciliation Board" is similar to the definition in the I.R.D.I. Act. The distinction I think between the roles of the conciliator and the conciliation board is already known to members of the committee and unless they wish to have clarification of that I would assume that there is no particular need for further explanation.

"Conciliator", definition (j), means a person appointed by the chairman of the Public Service Staff Relations Board to assist the parties to collective bargaining to reach an agreement. It is possible to arrange for a conciliator to be named both in the case where negotiations leading to compulsory arbitration

are involved and also in the case where negotiations leading to the appointment of a conciliation board and the eventual possibility of the right to use the strike weapon are involved.

The conciliator is common to both of those choices. The conciliation board, however, applies only to the situation in which arbitration is not the final recourse but the possibility of a work stoppage is the final recourse.

"Designated employee" refers to employees who are members of bargaining units, who, because of the requirement to have safety and security provisions contained in the bill, are designated and therefore are not permitted, even if they belong to a bargaining unit which has opted for the conciliation board and right to strike, to walk off the job. The methods by which these designated employees are designated are set out in clause 79 of the act, which we will come to later. There has to be a process of negotiation between the employer and the bargaining agent, and the employer must indicate the employees whom he proposes to designate as men who cannot take part in a strike even though they are members of the bargaining unit that is going on strike; and the employees have the right to accept or reject the proposed designations of employer, and the ultimate resolution of any disagreement arising on this point lies in the hands of the chairman of the P.S.S.R.B.

The definition of "dispute" is based upon the definition contained in the Industrial Relations Disputes Investigation Act, but covers, because of the necessity of doing so here, references to disputes which are ultimately resolved by arbitration as well as disputes which take the course of the conciliation board and the non-arbitration route. There is a reference in the Industrial Relations Disputes Investigation Act to "apprehended" disputes, which is not contained in here, and we can explain to the members of the committee the reasons for that omission when we come to the relevant sections, if it is desired that we should do so.

Then we come to the important definition of "employee". I say that this is a particularly important definition because I would point out to members of the committee that the term "employee", as used in this legislation, applies only to persons who are contained within a bargaining unit. A person who is excluded for any of the reasons set out in the smaller items below in this definition of "employee"—a person who is excluded from the definition of employee—is excluded from the provisions of this law which relate to the granting of collective bargaining rights to employees. If I am excluded on the grounds that I am personally employed in a managerial capacity, or that my employment is of a purely casual or temporary nature, then by excluding me under that heading you are denying me the right of joining with my fellow casuals in organizing for the purpose of collective bargaining with my employer.

Mr. BELL (*Carleton*): How casual can you get? When the dean of the deputy ministers calls himself casual—

Mr. KNOWLES: Have you had an opinion from the Department of Justice on that?

Mr. DAVIDSON: I have had opinions expressed by others but not by the Department of Justice.

An hon. MEMBER: Including the Auditor General?

Mr. DAVIDSON: The first group who are excluded from the definition of "employee" are those persons appointed by the governor in council under an act of parliament. That would include officers of parliament, statutory appointees, deputy heads of departments, and so forth.

Mr. WALKER: Ministerial staff?

Mr. DAVIDSON: Yes; because ministerial exempt staff are appointed by the governor in council.

Mr. WALKER: Are they statutory—

Mr. DAVIDSON: They are not statutory positions, no.

Mr. WALKER: That is what I was wondering about; because you seem to specify that it has to be a statutory appointment.

Mr. BELL (*Carleton*): Under the new Public Service Employment Act the appointments will be by the minister and not by the governor in council.

Mr. DAVIDSON: I was thinking of that point, too. Most of the ministerial exempt staff are appointed at the present time by the governor in council. Two are appointed by the minister.

Mr. KNOWLES: Under the new Public Service Employment Act they are all appointed by the minister.

Mr. DAVIDSON: The question arises whether or not these employees are members of the public service in the sense of the definition that we have here. "Public service" is defined here as: "The several positions in or under any department or any portion of the public service specified from time to time in schedule A".

I would like time if I may, Mr. Chairman, to examine that point and come back to the members with an answer at the appropriate time.

Are there any other questions on that point, Mr. Chairman, before I proceed?

I think the reasons why persons locally engaged outside of Canada are excluded are obvious. These persons fall within the jurisdiction of other sovereign states and we cannot, by anything we do here, presume to establish employer-employee relations with respect to employees who may come under the jurisdiction of other legislation in other national jurisdictions.

Mr. LACHANCE: Do they not remain the employees of the Canadian government?

Mr. DAVIDSON: They remain employees of the Canadian government, but there are no means in law by which the Canadian government, or they, could apply or enforce the provisions of this Canadian law in the courts to which they are subject.

Mr. LACHANCE: How will their relations with their employer be conducted?

Mr. KNOWLES: This does not apply to a person engaged in Canada and sent abroad. It applies, say, to a chauffeur employed by an embassy in Washington or Moscow.

Mr. DAVIDSON: Locally engaged employees are for example those who are permanently resident in London, England, and who are employed by the high

commissioner there; they do not come under the provisions of the Civil Service Act at the present time.

Mr. LACHANCE: Could they not be Canadians living in London, England?

Mr. DAVIDSON: They could be, yes, sir; but they are locally engaged.

I recognize that there is a problem here and this is why I took the trouble to point out the reasons why. In this provision set out here, the view is taken that it is not possible, within the framework of this legislation, to provide the same kind of regime for persons lying outside the jurisdiction of the Canadian government even though they are employed by the government of Canada.

Mr. CHATTERTON: What is the position of the personnel in the Company of Young Canadians?

Mr. DAVIDSON: They are not part of the public service of Canada. It is specified in the law that the Company of Young Canadians, as in the case of the Canada Council, for example, is not an agency of the government of Canada; and that is why you will find, Mr. Chatterton, that there is no reference, in the schedule attached to this act, to the Company of Young Canadians or to the Canada Council. These are not part of the public service. If they have employees they are not contained within the confines of this legislation.

Mr. BELL (*Carleton*): There was a substantial point raised by the Civil Service Association in respect of subparagraph 5, in which they suggested that casual or temporary persons who may be brought back year after year, although they may serve for less than six months, should have the opportunity of joining a bargaining agency. It seemed to me that this had some substance. I am thinking, for instance, of the Central Experimental Farm where there may be quite a number of people brought in during the summer season only, but they come back year after year to the same position. I wonder if it is proper that such persons should be totally excluded?

Mr. DAVIDSON: There are many problems, Mr. Bell, and I think we recognize them. I dislike having to resort to the hackneyed expression that "You have to draw the line somewhere". The real problem is how far you can go in recognizing the attachment of employees who are short term, casual or temporary employees as permanent employees who are potentially permanent members of a bargaining unit, whose votes may determine who is recognized and who is not recognized as the bargaining agent for the bargaining unit; whose votes may or may not determine whether or not the option is going to be for the arbitration or conciliation board approach; whose votes may determine whether or not a proposal which is put forward on the negotiating table and agreed to is or is not going to be acceptable to the majority of the membership of the bargaining unit.

It seems to us, if I may say so, that there are real dangers both from the point of view of the bargaining unit and its continuity and the status of the bargaining agent and the extent to which he can accept and discharge a mandate for his constituency. There are very real problems here from the point of view of both the staff associations, or the bargaining units, and the employer.

All I can say is that while we recognize that there is a problem here, we think we have gone about as far as it is practicable to go; we think we are aware of the fact that there are these theoretical problems which will arise; for

example, what about the employer who deliberately employs people for 5½ months and then lays them off, or discontinues their employment, and then a month later employs them again for another 5½ months.

Theoretically there is this technical possibility open, but it is, in the final analysis, the Public Service Staff Relations Board which is going to determine whether an individual is or is not an employee for purposes of membership in this bargaining unit, and the interpretations of the Public Service Staff Relations Board in this situation, if I understand correctly, can be made a reference to the courts. Consequently, we feel that there is protection against flagrant attempts to abuse this provision in the bill, and that the best we can do is to prescribe a term shorter than which persons employed in a casual or temporary capacity are not to be recognized as employees and potential members of a bargaining unit, and beyond which they can be so recognized. It could be five months; it could be four months; it could be ten months. Six months, it seems to us, was the practical period. I should add that I am told that it is linked with the six months' probation in the Superannuation Act, as well. I do not know that that is a very weighty argument, but it is a consideration.

Mr. CHOQUETTE: I was wondering if the six-month period was established considering the position of students working in the summer time. I imagine this would exclude them almost 100 per cent.

Mr. DAVIDSON: It would exclude them, I think, almost 100 per cent. If I may read the note here: Temporary or casual employees are employed for a limited period to cope with the seasonal or some other fluctuation in the workload that cannot be economically handled by permanent employees. Examples are temporary employees in the Taxation Data Centre; temporary employees of the Unemployment Insurance Commission at peak periods during the high periods of claims, persons employed during the summer, such as summer students, persons employed in the survey parties which go north during the summer time, and so on. I think the term is obvious, but it is a matter of judgment where this line is drawn.

Mr. ORANGE: You are talking about a casual or temporary basis, but there is a category here and I am not sure where it fits. This is called the seasonal positions. These are the people who are hired for the national parks for approximately six months, and they appear on the establishment as half-year positions. These people will work any number of months; they can go beyond the six-month period. These are permanent positions. The people are permanent in these positions. They return year after year and they are employed for this period of six months, or even longer.

Mr. DAVIDSON: May I refer you, Mr. Orange, to subheading (4) here? If a person, in the course of a year, works one-third of the time during the year, he would come under this.

This may help, Mr. Bell, in the situation we were talking about earlier. If you have a person who is employed regularly year in and year out for a period equal to one-third of the work period of the year, I would think that they would come under (4).

Mr. BELL (*Carleton*): Would that not be the person who had the right to return each year? I think that the type of employee of whom we spoke, the one

at the Central Experimental Farm, has no right. He is actually re-employed at the beginning of each growing season.

Mr. DAVIDSON: I think that is true. At the same time I think that there are other seasonal employees whose employment is of an assured, continuing, or recurring nature from season to season, and these are distinct from those who just happen to be re-employed.

The reasons for (3) as well as (4) and (5), which we have been discussing, are, I think, obvious. Where a person's compensation is based upon duties of office or related directly to revenue there is not an employer-employee relationship. This is rather a contractual or agent relationship and such persons would be excluded. I am told that this covers election clerks, returning officers, shipping masters at small ports, nautical assessors, port wardens, annuity agents, postage stamp sales agents and the like.

Mr. KNOWLES: What about postmasters in the small towns—the ones appointed by patronage? Postmasters in post offices, whose income is related to the revenue of their office, are out?

Mr. DAVIDSON: I would not say that, Mr. Knowles.

Mr. KNOWLES: What would you say?

Mr. DAVIDSON: We have a problem here which we are working on at the present time. Quite frankly, it was our initial understanding, that this reference, "related to the revenue of the office in which he is employed" would have the effect of excluding what is called "revenue postmasters" whose remuneration is paid by the Postmaster General and is related to the revenue that the post office receives. We have gone into this intensively within recent weeks and it appears to us now that, in fact, the remuneration of these revenue postmasters, so-called, is related to a workload formula rather than directly to a revenue formula and that revenue postmasters probably will not be excluded by this provision. I have to say that this has not been fully straightened out in our own minds as yet, and I would like to ask the Committee to allow me to come back to this as soon as we are firm in our view. Our belief now is that revenue postmasters, particularly those who come under the provisions of the Superannuation Act and, therefore, are deemed to be employees in respect to that situation, are not excluded from the definition of employees as here set out. They are not excluded, certainly, by the provisions of clause 2 (m) (iii).

Mr. LACHANCE: How about their employees?

Mr. DAVIDSON: This applies in the same way to their employees as to them. But this is one that I would ask the Committee to keep in mind and insist that I come back to at a later stage in the proceedings.

Mr. BELL (*Carleton*): I am not clear whether, as a matter of principle, Dr. Davidson wishes to have them included or excluded.

Mr. DAVIDSON: As a matter of principle, Mr. Chairman, we who have participated in the drafting of this legislation, have proceeded on the assumption that the maximum possible number of persons whose employment is related to their responsibilities to the Crown in the Right of Canada should be covered by the provisions of this legislation. That is the basis on which we proceed, but there are these marginal problems. There is a problem of determining when an

employer-employee relationship exists and when it does not. If it were found that these so-called revenue postmasters, had their remuneration related entirely and directly to the revenue—were working, in effect, on a commission basis, which we understand now they are not—and if there were no other provisions of any other law which recognized them as employees for any other purpose, I think we would then be bound to say that they are like the others I mentioned and would have to be excluded because they really cannot be regarded as employees. But the two things we think we have established are: (1) that they are recognized as employees if they are above a certain level for purposes of the Superannuation Act and are covered under that law as employees, and (2) that the basis on which they are paid is now related, we understand, to considerations of workload formula rather than to strict considerations of revenue. This leads us to the tentative conclusion which we are trying to firm up, that they will not be excluded under the provisions of (m) (iii) as it is worded at the present time.

Mr. BELL (*Carleton*): When we come back to this, would you tell us the classes who will be excluded?

Mr. DAVIDSON: The classes of what?

Mr. BELL (*Carleton*): The persons who will be excluded by the existence of this paragraph.

Mr. DAVIDSON: I have mentioned them already, Mr. Bell. Election clerks and returning officers.

Mr. KNOWLES: They are not permanent now?

Mr. DAVIDSON: Shipping masters at small ports; nautical assessors. I do not know if there are any shipping masters in Carleton. Are there, Mr. Bell?

Mr. BELL (*Carleton*): At the foot of Island Park Drive.

Mr. DAVIDSON: Port wardens; annuity agents; postage stamp sales agents. These are some of them. There are probably some others.

Mr. KNOWLES: This is a serious inquiry and conducted not in jest. Are returning officers not on a permanent basis as distinct from election clerks who get called in only once a year or so?

Mr. DAVIDSON: Could we look at that? We do not follow, with reason, that legislation as closely as you do.

Mr. KNOWLES: I know. They are permanent until they get fired.

Mr. LACHANCE: Do you consider the substation postmasters in Montreal or in Ottawa on the same basis as revenue postmasters in rural areas or small towns?

Mr. DAVIDSON: I would not, myself, be able to answer that question, Mr. Chairman. Perhaps Mr. Love or Mr. Roddick could give a reply or perhaps we could get it for you.

Mr. LACHANCE: I would like to know if they are considered on the same basis as the revenue postmasters because I know there are five or six of them in Lafontaine riding. I would like to know if these substation postmasters are considered revenue postmasters on the same basis.

Mr. LOVE: I think Mr. Chairman, that there are two situations. Many postal substations, particularly in larger communities, are staffed by civil servants who

are in the full sense, employees. The revenue post offices, however, are not confined to small communities and I think there are some revenue post offices in larger centres.

Mr. LACHANCE: There are some in the Montreal ridings.

Mr. LOVE: The distinction is whether they are paid from postal revenues or not. Where they are paid from postal revenues, the problems to which Dr. Davidson has been referring, apply. The nature of the employment relationship is certainly different because, at the moment, among other things, their rates of pay are established by the Postmaster General rather than by the Treasury Board, and the money required to meet those rates is paid out of postal revenue. This is the problem which we are now trying to get sorted out.

Mr. LACHANCE: I do not think they have ever been considered as employees of the government.

Mr. DAVIDSON: There is a further group and I will illustrate it, if Mr. Bell will allow me, by reference to Carver's Drug Store, where there is a postal substation. Not all of the substations are in exactly that position because I believe that some of the postal substations do operate strictly on a commission basis, whereas in a drug store the proprietor of the drug store and his employees provide limited postal facilities.

Mr. BELL (*Carleton*): Some of them are very good, including Carver's drug store.

The JOINT CHAIRMAN (*Mr. Richard*): Order. I understand Dr. Davidson will clarify this.

Mr. DAVIDSON: I think the reasons for the exclusion of a person employed by or under the Board are obvious. The definition of "managerial capacity" is dealt with later on in this list of definitions. I should add that there are one or two other points that we will have to come back to with reference to (m), the most important one of which is a form of words that we would propose to add to the end of (m) which would protect the position of the employee during periods that there is a work stoppage, so that it makes it clear that they do not cease to be employees for purposes of this legislation during a period when they are involved in a work stoppage. A suitable form of words is being developed and we will put this forward as soon as we are in a position to do so.

Mr. KNOWLES: That is with regard to the court ruling following the Royal York case.

Mr. DAVIDSON: Well, I think it is a matter of equity quite apart from the Royal York case. There is also a problem of certain employees of the R.C.M.P. who are referred to at the present time in Schedule A and whom now, in our view, we should bring forward and exclude from the definition of employee as set out in clause 2 of the bill. If you look at Schedule A, Part 1, you will see a reference made to "Royal Canadian Mounted Police, (except the positions therein of members of the force)". That, with some change in wording, it is now proposed to bring forward to this point in clause 2 and add to this list as being excluded from the definition of employee.

"Employee organization" is the next definition. It means any organization of employees the purposes of which include the regulation of relations between

the employer and its employees—that is to say, within the relationships as set out within the provisions of this act, and includes, unless the context otherwise requires, a council of employee organizations. This again, Mr. Chairman, is similar to the definition of trade union as set out in the I.R.D.I. Act and the Ontario legislation. The I.R.D.I. Act, I think I am right in saying, contains no reference to a council of employee organizations but the Ontario legislation has been recently amended, I understand, to provide for that.

“Employer”, which is the next definition given, means Her Majesty in the right of Canada. The representation here is provided for in two ways: one, by the Treasury Board acting for most of the portions of the Public Service, but there are, as members know, certain portions excluded in Schedule A, Part II of the legislation and set up as separate employers. In the case of these employee groups who are governed by the separate employer provision, the Treasury Board will not enter into the picture as the representative of the employer in bargaining relationships. When we come to the Schedule itself I think that would perhaps be the appropriate time to explain why in certain instances bodies like the National Film Board or the Centennial Commission have been set aside and given the status of separate employers rather than having their employers bargain, along with the rest of the Public Service, in relationship to the Treasury Board as employer.

There is an important definition of what constitutes “Grievance” here. It means a complaint in writing presented in accordance with this act by an employee except that for the purposes of any of the provisions of this act respecting grievances, a reference to an employee includes a person who would be an employee but for the fact that he is a person employed in a managerial capacity. That gives me the right to grieve even though it does not give me the right to bargain. The reason for the inclusion of this item, I assure members, is not to protect the position of persons like myself; it is rather to protect the position of persons who because of managerial responsibilities that they will carry at lower levels, should be entitled to have a channel by which their own grievances can be aired even though the fact of their being employed in a managerial capacity may deprive them of the right to be included in a bargaining unit along with the employees over whom they have managerial responsibilities.

Mr. KNOWLES: That right to grieve would be through the regular grievance procedure.

Mr. DAVIDSON: Yes, established within the department of which they are a member.

Mr. KNOWLES: To whom would you grieve?

Mr. DAVIDSON: I wish you could find someone and let me know who it is.

The other exception is for purposes of any of the provisions of this act respecting grievances over matters involving disciplinary action resulting in discharge or suspension. A reference to an employee for purposes of the grievance definition includes a former employee or a person who would be a former employee but for the fact that the time of his discharge or suspension he was a person employed in a managerial capacity. I think the members can appreciate the obvious reasons for that being included.

Mr. BELL (*Carleton*): There were a number of representations I observed from the fine memorandum which was prepared by the Clerk. I see three organizations, the C.L.C., the C.S.F. and one other organization. Have they been analyzed, Dr. Davidson?

Mr. DAVIDSON: They have been, sir, but I would ask Mr. Roddick to comment on this point. You are referring to the representations made by the staff associations—

Mr. BELL (*Carleton*): To this Committee.

Mr. DAVIDSON:—with respect to the definition of grievance.

Mr. BELL (*Carleton*): I see the Canadian Labour Congress, I have not been able to turn up their brief at the moment. Could Mr. Roddick perhaps make a comment?

Mr. RODDICK: Mr. Chairman, there have been a number of different representations made in respect to grievances. The ones that occur to me now are proposals that all grievances should be permitted to go to adjudication; proposals that the concept of grievance should include groups of employees as well as individual employees, and there was one other one but I have lost it for the moment.

Mr. BELL (*Carleton*): That was the point that I think the letter carriers made, that this definition should take in a grievance by a group of employees or by the bargaining unit itself. It is on page 7 of the brief of the letter carriers' union.

Mr. RODDICK: I think, Mr. Bell, the third representation that I have recalled was the desire of some of the employee organizations that the right of the grievance should be vested in the union rather than in the employee, but the one that you are referring to is the one of the letter carriers' union which relates to—

Mr. BELL (*Carleton*): It is at page 7 of the letter carriers' union brief, and deals with this definition:

“The bill does not take into consideration that grievances might also be submitted by a group of employees or by the bargaining unit itself. This oversight becomes noticeable again in section 90 and we would request the Committee to make recommendations to correct this.”

Mr. RODDICK: Mr. Bell, I think that when the bill was drafted it was at least my interpretation—perhaps I had better not put it further than that—that that provision would have permitted a group grievance. I think we may be willing to look at this to see whether in fact that assumption is correct or not, because I do not think there was any intent on the part of the people drafting the bill to deny the possibility. It seems quite a reasonable possibility.

Mr. BELL (*Carleton*): Perhaps you would go back to that and take a look also. I have not at the moment been able to find the particular point in the Canadian Labour Congress brief where this was dealt with.

Mr. DAVIDSON: Mr. Chairman, is there not a provision in the Interpretation Act—and this is not a reason for not making it more clear here—that says words

in the singular include the plural; or is it necessary to make specific provision for this in each individual bill?

The JOINT-CHAIRMAN (*Mr. Richard*): Perhaps Dr. Davidson we will have an opportunity to look this up.

Mr. DAVIDSON: We will be glad to look at this. Is that satisfactory?

Mr. BELL (*Carleton*): I am quite satisfied, as a general matter I am proposing to try to follow all the briefs and see that the points which have been raised are dealt with by the Committee, and perhaps your assistants, Dr. Davidson, would have in front of them the material that the Clerk has prepared for us so that if questions arise on any pages of the briefs we will be able to get immediate answers.

Mr. DAVIDSON: Thank you for that suggestion. We will follow that.

I am confirmed in my reference, Mr. Chairman, to the provisions of the Interpretation Act. The Interpretation Act, section 31 (1) says: "In every Act unless the contrary intention appears, (j) words in the singular include the plural, and words in the plural include the singular." It may well have been that we proceeded on that assumption and that the legal draftsmen proceeded on that assumption, but that does not say that it should not be spelled out in this particular provision, and we will be glad to report on that as soon as we have had a further look at it.

Mr. KNOWLES: Before we get to the part of the bill that deals with grievances.

Mr. DAVIDSON: Yes, clause 90.

Mr. KNOWLES: Clauses 90 and 99.

Mr. DAVIDSON: Could members make a note. We will make a note and we will come back to it if you do not. It would be useful if we kept in mind the need to—

Mr. KNOWLES: Just for the record.

Mr. BELL (*Carleton*): Just for the record. This is raised by the Canadian Labour Congress at page 21 of their brief, paragraph 54.

Mr. KNOWLES: There seems to be nothing in this definition we are now looking at which settles the point whether it is a person or a union. That comes when we get to clauses 90 to 99. Really all we are doing here is making sure that a grievance includes a grievance presented by a person who is in a managerial capacity.

Mr. DAVIDSON: Well, it goes a bit further than that. It says "a grievance means a complaint in writing presented in accordance with this Act by an employee" and the question really hinges on whether two employees or a group of employees or a spokesman for a group of employees can comply with the wording as here set out.

Mr. KNOWLES: Whether an employee does it directly or through a union.

Mr. DAVIDSON: Could I suggest to members of the Committee that with reference to the definitions of "initial certification", and "occupational category," in view of the complexity of the problems relating to the initial certification

and the occupational categories and the fact that we will have to deal with this entire problem under clause 26 when we come to look at it, that it be left until then. I have already mentioned that there are some changes that we are proposing to clause 26 and, therefore, I think these two definitions might be left on that account.

Mr. KNOWLES: But you do not propose any changes here.

Mr. DAVIDSON: There may be some changes to be made here, Mr. Knowles, but they will only be meaningful if we first of all, explain what we have in mind in clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Order, gentleman. We will adjourn until this evening at eight o'clock.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. We will resume on clause 2, subclause (r). Dr. Davidson.

Mr. DAVIDSON: Mr. Chairman, I had suggested, and I think the Committee agreed, that subclauses (q) and (r) should be set aside to be looked at when we come to clause 26. Further, as subclause (s), the "occupational group", relates also to the consideration of the definition of "occupational category", perhaps we should do the same with this one.

This brings us then to the definition in subclause (t), "parties", which I think is fairly clear and requires no explanation. It is comparable to the definition in the I.R.D.I. Act, section 2 (1) (n).

Then we come to an important definition, the definition of a "person employed in a managerial capacity".

Mr. WALKER: Excuse me, I would like to go back to subclause (t) (ii), which reads:

(t)(ii) in relation to a grievance, the employer and the employee who presented the grievance;

I presume that "employee" can be enlarged to the "employee's representative".

Mr. DAVIDSON: This ties up, Mr. Chairman, with the discussion we had this afternoon with reference to "employee" when we were considering the definition of "grievance". I might indicate that what we plan to present for consideration of the Committee on this is a change in the definition of "grievance" that will make it possible for an employee to present a grievance himself or on behalf of a group of employees. It is not our thinking at the present time that there would be a third provision that the bargaining agent himself could present the grievance. The fact, of course, that a grievance is presented in writing by an employee, or by an employee on behalf of a group of employees, would be supplemented by the provision in the law that makes it possible for the employee to be represented by a representative of his own choice. Now, if we make it clear that the employee who presents the grievance may be presenting a grievance in his own name as an individual or on behalf of a group of employees, it becomes unnecessary to change the wording here because this merely refers to the employee who presented the grievance.

We come then to the definition under subclause (u)—

Mr. KNOWLES: We will come back to this subject when we get to the other sections.

Mr. DAVIDSON: Oh, yes. This comes up, Mr. Knowles, when we come to the substantive clauses dealing with grievances.

Mr. BELL (*Carleton*): I was very much at fault this morning when I mentioned other references in not having mentioned the references of the Civil Service Federation in relation to this.

Mr. DAVIDSON: I think this point that we have just brought forward very largely covers the concerns of the organizations which have made representations on this point.

Mr. BELL (*Carleton*): Exactly. I am only extending my apologies to the federation, which is now the alliance.

Mr. DAVIDSON: Could we then turn, Mr. Chairman, to the definition of a "person employed in a managerial capacity"? Here I draw the attention of the members of the Committee to the distinction in kind between those persons who are referred to under subclauses (i) and (ii) and those persons who are referred to under subclauses (iii), (iv), (v), (vi) and (vii). The persons referred to under subclauses (i) and (ii), as persons employed in a managerial capacity, are determined on the basis of fact. The persons who are referred to under subclauses (iii), (iv), (v), (vi) and (vii), as persons who are or may be designated as persons employed in a managerial capacity, are persons in respect of whom the decision is the decision of the board, and it will be the judgment or the opinion of the board that will determine whether or not they are in fact deemed to be persons employed in a managerial capacity. I do not think there is a problem so far as subclause (i) is concerned. The reasons for the inclusion of these persons, as persons employed in a managerial capacity, are self-evident. The reference to the chief executive officer of any other portion of the public service should be taken in conjunction with the list of the other portions of the public service which are set out in Schedule A to this bill. I mention that to indicate that it is not possible for anyone to arbitrarily subdivide the public service into small segments which would be called portions. The portions are those referred in the schedule to this legislation.

Subclause (ii) of the definition is included for the reason that the legal officers of the Department of Justice are called upon from time to time to provide the government, the employer, with advice and counsel in a great variety of matters that could be related to this legislation, and consequently by that fact it is considered that they should be regarded as persons employed in a managerial capacity, with all that implies for their position under this legislation. On those two cases it is a matter of determining what the facts are, and while the proposal to designate a person under one of these two headings as a person employed in a managerial capacity could presumably be challenged by the bargaining agent on the ground that they are not in fact persons who come under subclauses (i) or (ii); the question of fact would be the sole point at issue. When we come to the remaining portions you will notice that in all cases the persons who are going to be designated under subclauses (iii), (iv), (v), (vi) and (vii) as persons employed in a managerial capacity are dependent upon, first of all, the proposal

being put forward by the employer. Second, they are subject to challenges by the bargaining agents and, in the event of challenge, the decision is the decision based upon the judgment of the Board as to whether the employer's case for designating the employee in question as a person employed in a managerial capacity is valid or not.

The persons under this series of headings who may be claimed by the employer as persons employed in a managerial capacity includes a person, first of all:

- (u) (iii) who has executive duties and responsibilities in relation to the development and administration of government programs,

I think the reasons for that are obvious. If the employer goes too far in proposing to designate employers as persons employed in a managerial capacity under this heading, each individual case is subject to examination and challenge by the bargaining agent concerned. The reasons for the inclusion of personnel officers or persons whose duties include the duties of personnel officers in the category of persons employed in a managerial capacity are, I think, fairly obvious, as are the reasons for including in this category persons whose duties involve them directly in the collective bargaining process on behalf of the employer.

The next category of employees regarded as persons employed in a managerial capacity are those persons who have formal—and I would draw that word to the attention of the committee—formal responsibilities on behalf of the employer in the administration of the grievance procedures. Again, persons whose duties bring them into a confidential relationship with any of the persons employed in a managerial capacity—to which we have already referred—would be regarded, because of their relationship to their immediate employer, as being persons who are employed in a managerial capacity.

Mr. KNOWLES: Mr. Davidson, have you not gone a little further than the clause in the way you stated that? The clause says "employed in a position confidential to" any person. Now you say in "a confidential relationship".

Mr. DAVIDSON: I stand corrected. You are quite right, Mr. Knowles. I did not intend any difference in meaning. The fact is the reference here is to "a position confidential to" and it would have to be established that by the nature of the position it was a position that stood in a confidential relationship to the employer, who has already been designated.

Mr. KNOWLES: Not just a person who happened to come to you and tell you something of a confidential nature?

Mr. DAVIDSON: That is correct.

Senator DESCHATELETS: Dr. Davidson, this is quite a broad term though, confidential position, to any person.

Mr. DAVIDSON: Well, could I say first of all that before a claim could be lodged by an employer that an individual should be regarded under subparagraph (vi) as a person employed in a managerial capacity, it would be necessary first of all to establish that that person's employer was already determined to be a person employed in a managerial capacity under (i), (ii), (iii), (iv) or (v). Having established that fact, it would then be necessary to establish to the satisfaction of the bargaining agent concerned or, failing that, to the satisfaction

of the Public Service Staff Relations Board, that the person being claimed under subclause (vi) was in fact a person employed in a position confidential to the person already designated. The purpose of this provision, Mr. Chairman, is essentially to ensure, for example, that in the case of a secretary employed by the assistant secretary of the Treasury Board, or a secretary employed by the chief of personnel of a division in a department of government, the position of that secretary, being in a confidential relationship to the position of the personnel administrator, assuming that the personnel administrator were deemed to be a person employed in a managerial capacity—then it would follow, if established to the satisfaction of the board, that the secretary to that personnel administrator could likewise be claimed as a person employed in a managerial capacity.

Mr. KNOWLES: That would be in the nature of the position?

Mr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): What concerns me, Dr. Davidson, in relation to this is the fluidity of the situation. This would change from day to day. People would move in and move out of these excluded positions in the managerial capacity. How can you have any finality in this?

Mr. DAVIDSON: Well, I think that is the reason for attaching importance to the correction to which Mr. Knowles drew my attention. It is not the person, it is the position which has to be claimed by the employer in the first instance.

Mr. BELL (*Carleton*): Yes, but is it not the person who is going to vote in the bargaining unit. A person joins and is a member of the bargaining unit. How does the bargaining unit suddenly decide that because that girl has moved that day to another position that her right to vote is suddenly cut off?

Mr. DAVIDSON: Well, let me give you as an example the case of my own secretary. In this instance first of all it would be necessary to establish that I am a person employed in a managerial capacity under subclause (i) of this definition. If it is accepted that I am a person employed in a managerial capacity, then the employer may claim that the position on the establishment of the department of the Treasury Board—

Mr. KNOWLES: I am sorry to interrupt you, Mr. Davidson, but (i) is not included in (vi).

Mr. DAVIDSON: That is a good point.

Mr. KNOWLES: It is the second time you have done it. The first time I thought it was a slip.

Mr. DAVIDSON: That is a good point. I would like to check that.

Mr. KNOWLES: Subclause (i) is the clause that says that a person is in a managerial position if he "is employed in a position confidential to" a minister.

Mr. DAVIDSON: Correct. It has been pointed out to me by my advisers that I would be excluded under several of these headings. Let us agree that I am excluded under subclause (iii), if not under subclause (i). However, I would in fact be excluded under subclause (i), I take it, as a person employed in a position confidential to a minister of the Crown. In any event, I presumably would be judged to be a person employed in a managerial capacity under subclause (iii). That having been established—

Mr. KNOWLES: I would still like to be clear about (i). It seems to me that you should not regard yourself as being under (i), assuming this drafting was done pretty carefully, because (i) might include a stenographer's position in a minister's office. I take it the reason (i) is not included in (vi) is that a person working for that stenographer is not, by the nature of the job, in a managerial position. Therefore (i) is more restrictive, and you are in a managerial capacity not because you are in a position confidential to a minister but because you have executive duties and responsibilities?

Mr. DAVIDSON: That is correct.

Mr. McCLEAVE: May I ask Dr. Davidson another question? Should it not surely be persons employed in a confidential capacity, because under the definition of subclause (u) (i) a messenger employed by a minister would be employed in a position confidential to that minister, yet you could hardly class that sort of person as a manager. Are you not trying to strike at the confidentiality rather than the so-called managerial capacity of the position?

Mr. DAVIDSON: What we are really doing here is trying to identify what is the management core in the public service.

Mr. McCLEAVE: Does a messenger fit within your definition, Dr. Davidson? After all, he is confidential to his minister and, indeed, he may have to bear very important verbal messages to someone else.

Mr. DAVIDSON: He would then be regarded, for purposes of this definition, as a person employed in a managerial capacity.

Mr. McCLEAVE: We are sort of playing around with words when you are really trying to strike at confidentiality rather than manageriality.

Mr. DAVIDSON: We are trying to circumscribe the group of persons who are designated as persons who should be excluded from the bargaining relationship. We have attempted to do that by saying that persons employed in a managerial capacity shall be designated as the persons who are excluded from the collective bargaining relationship.

Mr. McCLEAVE: Maybe I am a verbal purist, or something like that, but I do not think you want to use the word "managerial" there and maybe you do not want to use the word "confidential" either. Could that one be looked at again to see if we can come up with a better word?

Mr. KNOWLES: I wonder if Mr. McCleave is not under some misunderstanding about subclause (i). It does not say "any person" working for a minister is necessarily in a managerial capacity. The messenger may not be a confidential person.

Mr. McCLEAVE: But suppose that he is?

Mr. KNOWLES: It is not the person, it is the position.

Mr. DAVIDSON: But if you have on the ministerial staff a position known as a confidential messenger, for example, it seems to me that it is pretty clear that—

Mr. KNOWLES: Provided the position is so defined.

Mr. DAVIDSON: If you had a position of a personal secretary to a minister, it seems to me that it would follow that this person is in a position that is confidential to the minister because this person has access to ministerial papers,

is taking dictation from the minister and preparing letters for his signature, and so forth. It seems to me it would be necessary to regard a person in that position as so close to management that that person, together with the person by whom he is employed, would have to be regarded as excluded from the collective bargaining relationship.

Mr. McCLEAVE: I misread it completely. I would like that clause to be considered again because I think it takes words and tends to twist them out of their natural meaning. That is all I ask.

Mr. DAVIDSON: I see your point, Mr. McCleave, and we certainly will look at it. I am not as optimistic as I would like to be at this point that we can resolve that problem. In any event, may I come back to my example. Assuming that Mr. Love or I are eventually established as being persons who fall under clause 2(u) (iii)—and that has to go to the Board, if necessary, to be determined—then it is open to the employer to apply for the person who is in the position confidential to me or to Mr. Love, namely our secretaries, to also be certified as persons employed in a managerial capacity. This proposal as put forward by the employer is open to challenge by the bargaining agent on behalf of the stenographic group, and in that event it would have to be resolved by the Public Service Staff Relations Board.

We come finally to clause 2(u) (vii), and I must state quite frankly that as it is not possible at this stage to foresee all of the circumstances under which it might be proper for the employer to put forward a proposal to exclude an individual as being employed in a managerial capacity, we have proposed the inclusion of this provision which is again subject to challenge by the union and subject to final determination by the Public Service Staff Relations Board. The essence of subclause (vii) is that in any circumstance where there is a conflict of interest—and we are, incidentally, proposing to delete the words “tend to” from the third line from the bottom to meet the pre-occupations of the Civil Service Association of Canada and the Professional Institute—it will be necessary before claiming a managerial exclusion under the heading to establish to the satisfaction of the Board that it would, in fact, create a conflict of interest by reason of the individual's duties and responsibilities towards his employer.

Again I say this would be subject to challenge by the bargaining unit concerned and would be resolved, in the final analysis, by the Public Service Staff Relations Board.

Mr. KNOWLES: It is a kind of 15(a) item, is it not?

Mr. DAVIDSON: What kind of an item, 15(a)?

Mr. KNOWLES: You have not heard of 15(a)? Contingencies—Department of Finance.

Mr. DAVIDSON: That is next week's bill of fare. I am supposed to be appearing before the Public Accounts Committee.

Mr. BELL (*Carleton*): I thought that was on last week's bill of fare. I heard about it from the Deputy Minister of Justice.

Mr. DAVIDSON: I remember that now.

Mr. KNOWLES: From the way you have put it, you do recognize that it is a kind of catch-all?

Mr. DAVIDSON: I agree.

Mr. KNOWLES: And you were a bit apologetic about it, I imagine.

Mr. DAVIDSON: Well, frankly, I have been asking my own advisers under what circumstances a claim for the designation of a person as a person employed in a managerial capacity in this context could arise. They have given me one example which I will cite in a moment but basically they have said: "We have felt it necessary and desirable to include this because we do not feel we can envisage all situations. It would not be our intention to use this to apply for a determination by the board that such and such a person is employed in a managerial capacity except in a situation where a clear case existed. We do not expect it to be used very often, but we are just not in a position at this stage to spell out in every last detail every person who it may be quite clear, should be designated as a person employed in a managerial capacity".

The instance that I have been given of a circumstance under which application might be made under this subclause has to do with a situation in which a person at the first level of supervision in a large department might be designated as the person responsible for receiving and dealing with the grievance in the grievance procedure at the first level. That person—the first-line supervisor—will be excluded under clause 2(u)(v) as a person who has formal responsibilities in connection with the grievance procedure and is, therefore, a person for that purpose employed in a managerial capacity.

The next stage in processing that grievance may well carry beyond that person's immediate supervisor to a higher authority at the regional level. It is in circumstances where you would have one supervisory level in between two persons, each one of whom has supervisory responsibilities and is excluded because of responsibilities under the grievance procedure, that it might be necessary to apply for the intermediate person who supervises the first-line supervisor to be regarded as a person employed in a managerial capacity. Otherwise it would be rather incongruous to have a supervised person regarded as a person employed in a managerial capacity while his own manager or supervisor is not so categorized.

This was the example that my advisers indicated they had brought to their attention by officers of one of the larger departments, with the request that we indicate to them what we thought about this kind of situation. In that situation, if the employer were so disposed, it would be necessary for the employer to propose to the Public Service Staff Relations Board that that person be certified by the board as a person employed in a managerial capacity. This would be brought to the attention of the union, and if the union had an objection to that person being so certified it would have its opportunity to challenge the proposal before the Public Service Staff Relations Board, and then the matter would have to be decided by the board.

Mr. WALKER: Mr. Chairman, I do not see this clause solely as a clause for the protection of the employer. I think the reverse can also apply. It might well be that the union—and I do not know whether Dr. Davidson sees this—would be very pleased to have somebody removed whom they feel should not be in that unit because he is creating a conflict of interest. Apparently the conversation on this clause has been centred around the fact that this might well be to the benefit of the employer. I think it could well be to the benefit of the bargaining unit who

may have someone who is putting sand in the machinery, so this is a clause that is for their protection too. Is this not so?

Mr. DAVIDSON: I could at least draw the attention of the Committee to the fact that the Canadian Union of Postal Workers within the last year decided that a considerable number of individuals who had been members of their union up to that time should henceforth be excluded from membership because they regard them as having managerial or supervisory responsibilities.

Mr. KNOWLES: Most of the trouble in labour-management relations, regarding persons in a managerial capacity, is the other way.

Mr. DAVIDSON: Yes, and I would have to draw to Mr. Walker's attention what I think is the case—I would like to check the wording of this more closely—but it is not clear to me that it is open to the bargaining unit to make application for designation of a person as being a person employed in a managerial capacity. I think it is implied however in the fact that the Board may do it on its own initiative.

Mr. KNOWLES: Mr. Chairman, I would certainly feel a lot happier—

Mr. DAVIDSON: Perhaps that wording should be looked at.

Mr. BELL: This should be mutual.

Mr. DAVIDSON: Could I mention just one further point, Mr. Knowles. I think it must be recognized, in endeavouring to develop legislation that grants collective bargaining rights to members of the public service, that we are moving into an area, in terms of professional and administrative classes of employees, where there is very little in the way of experience in the industrial setting and it is in these areas that I think we are going to have very real difficulty in setting out in all cases the situations where highly classified professional personnel may have legitimate expectations of being accorded bargaining rights under this legislation, but at the same time may have very real managerial and supervisory responsibilities. I think it is in this very grey and difficult and sensitive area that there needs to be some provision in the bill somewhere that makes it possible at least to raise the question in certain individual instances whether or not this is a person who should be excluded from the bargaining process because he is a person employed in a managerial capacity. Now, I recognize there might be legitimate concern about this if there were not adequate safeguards against the improper use of this designation proposal on the part of the employer, and the safeguards here are the requirement that the union is free to challenge any proposal along these lines and that the decision, if the union so challenges, is in the hands of the Public Service Staff Relations Board.

Mr. KNOWLES: It is a safeguard as far as it goes but it does not go all the way. For this reason I am still going to press the point that you might try to improve this wording. You say that if an employer asks that such a position be so described the bargaining unit may object, but then the decision is made by the P.S.S.R.B. and, of course, the board is guided by the legislation and the legislation is right here in these definition sections. Now, I have no desire to go over and over what has been done in the House, but I am suspicious of these contingency items, these items that are there which are put in in good faith in the first place, but by and by some other administration or some other government finds them and uses them, and we have had a number of examples. Now if

you have got a case such as the one you have described, where you had an in-between person, why not find wording to cover that case rather than this blank cheque proposition?

Mr. WALKER: You are asking Dr. Davidson, not myself, but I would like to add the comment that I think the necessity for clause (vii) is because of the specific nature of the other clauses.

Mr. KNOWLES: What are the other clauses, Mr. Walker? Subclause (vii) speaks about people with duties and responsibilities and a possible conflict of interest, you have got the executive duties and responsibilities in subclause (iii), you have got the duties in relation to personnel in subclause (iv), you have got the duties and responsibilities in relation to grievances in subclause (v), and you have got "any other" duties and responsibilities because you are employed in a position that is confidential to a person already so described it seems to me your net is a pretty wide one already.

Mr. DAVIDSON: You will not mind my drawing attention to the fact that this net is much, much less wide than the net of exclusions under the I.R.D.I. Act, which categorically excludes all persons performing managerial or supervisory duties, and it excludes all persons employed in a confidential capacity—not positions, but all persons employed in a confidential capacity—in matters relating to labour relations, and also excludes certain classes of professional persons.

Mr. KNOWLES: I do not mind you telling me that because I would not mind showing you a private member's bill where I tried to get that section of the I.R.D.I. Act changed.

Mr. DAVIDSON: Well, I think we feel that the provisions here which attempt to define persons employed in a managerial capacity will have the result of excluding many fewer persons than would any provision such as a reference to persons performing managerial or supervisory duties. We have endeavoured to be as specific as we possibly could in restricting the specific classes that we have referred to here, and our only reason for feeling that there is a need for retaining a clause such as (vii) proposes is that we are satisfied that situations will arise, all of which we cannot foresee at the moment but which relate to the dangers inherent in a conflict of interest as between the person's membership in the bargaining unit and the person's responsibilities to his employer. We do not think that the employer should have any arbitrary rights to exclude people on a unilateral basis, but we do think that in these situations which seem to the employer to be situations involving a conflict of interest the employer should at least have the right to put forward the claim that a conflict of interest does exist. It is then left to the union to challenge that and if the union does challenge it, it is left to the Public Service Staff Relations Board to decide.

Mr. KNOWLES: To rule on the basis of the—

Mr. DAVIDSON: Conflict of interest.

Mr. KNOWLES: I am sure you appreciate my fear about this kind of blank cheque. It could be argued that every last civil servant in Canada has duties and responsibilities to the employer and that there is a conflict of interest between that and his being in a union that is trying to get something out of that employer. I am pushing it almost to the point of *reductio ad absurdum*, but that is the language... "any person for whom membership in a bargaining unit would tend

to create a conflict of interest by reason of his duties and responsibilities to the employer;" I submit that every civil servant has duties and responsibilities to his employer.

Mr. DAVIDSON: I agree with the last part, but I would not agree with the proposition—and I am sure you would not agree with it, Mr. Knowles—that every civil servant has duties and responsibilities to his employer that would result in the creation of a conflict of interests if he were a member of the bargaining unit.

Mr. KNOWLES: I agree; but this is the area of opinion, the area of decision, on which the court has to rule. Your other examples spell out the terms and conditions.

Mr. DAVIDSON: Yes, this is the difference, and I was quick to point this out to the Committee when I introduced this particular subhead. There is no doubt about it, that this is different in kind from the other specifically spelled out definitions of groups of people.

I can only say that even if we were to find a form of words that would deal with the example that I gave, I think I would still argue that there would be need of some clause such as the one that is set out here under subhead 7, suitably protected and suitably circumscribed, that would recognize that situations may arise, as we develop experience in this legislation, that would justifiably call for the employer to apply for the individual person to be excluded because of a clear conflict of interests. If it is not a clear conflict of interests, presumably the board—unless one has no confidence in the capacity of the board to make these decisions—would refuse to accept a frivolous or unsubstantiated claim on the part of an employer.

Senator CAMERON: Mr. Chairman, is it not inevitable at this stage of the game when we are dealing with an experimental program, that it is simply impossible to conceive of all the circumstances that might come up and to try to provide for them in the specific framework. You must leave some latitude, even at the risk of giving my friend, Stanley Knowles, some cause for concern.

Mr. BELL (*Carleton*): I wonder if I could pick a more general field and ask Dr. Davidson if he and his officers have considered what the Professional Institute has said in connection with this clause? The professional institute is perhaps more involved than any of the other groups, and they had some very specific language which they suggested might be used in respect of all of these particular clauses, and I assume they have been analysed by the Department of Justice and by Dr. Davidson and his advisers. Perhaps we might have some idea of what views they had on them.

Mr. DAVIDSON: Could I just say, Mr. Chairman, that it was partly because of the concern of the Professional Institute, as expressed in their brief to the Committee, and partly as a result of the concerns expressed by the other staff associations, that we did look at this again. We did feel that the criticism was justified, at least to the extent of proposing at the appropriate time, to suggest the deletion of the words "tend to". You can see instantly that this is much too shadowy an area to ask the Public Service Staff Relations Board to—

Mr. BELL (*Carleton*): I understood that that was all conceded. I was referring to the broader field where the Professional Institute, on page 5, deals with the other clauses.

Mr. DAVIDSON: I beg your pardon; I thought you were referring specifically to the new wording proposed by the institute for this particular clause.

Mr. BELL (*Carleton*): No. The whole of page 5 in the brief of the Professional Institute is taken up with the discussion of suggested qualifying amendments to each one of the subclauses under (u). I assume they have been carefully considered.

Mr. DAVIDSON: The institute has made the point, among others, that the expression "confidential to" in this section needs further clarification, inasmuch as the jurisprudence governing the use of these words in other labour legislation is not in their view clearly applicable to the public service situation.

Again, I would think that the experience, if not the jurisprudence, relating to the interpretation of these words in labour relations legislation generally, would certainly be taken as a guide by the Public Service Staff Relations Board in determining what it has to determine in relation to confidentiality under the provisions of these definitions.

Mr. BELL (*Carleton*): Yes, I agree with that.

Mr. DAVIDSON: I would also add, Mr. Bell, that I think it is important again to remember that the references here are references to positions "confidential to," whereas the references in the I.R.D.I. Act are references to persons "employed in a confidential relationship." This is an important distinction and I am sorry that I blurred it at the outset of my explanation; but clearly here there is a much more sharply defined attempt to designate what is meant by "confidential", and we attach that to the person's position rather than to the expression "persons employed".

Mr. BELL (*Carleton*): I agree with that, Dr. Davidson, but I would like to direct your attention to the paragraph earlier than that, where, in each one of these paragraphs, the Professional Institute suggested that there should be an amendment. I think that they did this with sincere goodwill and I assume that it has been considered. This starts at the top of page 5 of their brief.

I do not want you to comment individually, but I think that when a brief has been presented to this Committee, and it has had the study that the Professional Institute would give it, you and your advisers ought to deal with what is proposed by them as an alternative.

Mr. DAVIDSON: I would like to assure you, Mr. Bell and Mr. Chairman, that my officers have carefully reviewed each of the individual proposals contained in the brief of the Professional Institute, as well as in the other briefs, with respect of the various points raised in these definitions.

For example, we have a reference in the Civil Service Federation brief to the desirability of using the expression "personnel administrator" rather than "personnel officer."

Mr. BELL (*Carleton*): I am aware of that Dr. Davidson, but I am talking about page 5 of the Professional Institute brief at the moment.

Mr. DAVIDSON: Unfortunately, I do not have a copy of the brief here, but I have a series of notes which my officers have prepared, which relate to the points they have raised. Perhaps the best thing I could do here would be to undertake to you that I would examine this series of comments personally—the ones made

by the Professional Institute—and come back to this at a later meeting. Is that satisfactory?

Mr. BELL (*Carleton*): Yes.

Mr. DAVIDSON: Could I just be sure that I have the right reference now. Is it page 215 of the evidence?

Mr. BELL (*Carleton*): I am dealing with the original brief of the Professional Institute, and it is at page 5.

Mr. DAVIDSON: Dealing with the definitions set out under the heading "person employed in a managerial capacity".

Mr. BELL (*Carleton*): It is contained in subparagraph (u), and in each case, for each of the numbered subparagraphs, the Professional Institute has proposed substantial amendments, to confine these amendments. For example, let us look at subparagraph (ii) which, as it now stands, reads:

is employed as a legal officer in the Department of Justice.

The Professional Institute, which I would assume represents most of the legal officers, suggests that there be added the following words: "and whose assigned duties cause him to be directly involved on behalf of the employer in the process of collective bargaining and/or is required on behalf of the employer by reason of his assigned duties and responsibilities to deal formally with the dispute or grievance under the act."

These are the types of individual representations that I would like to have dealt with.

Mr. DAVIDSON: Well, I will be very glad to go through these in detail, Mr. Bell. I will review them over the period between now and the next meeting, and will be prepared with the consent of the Chairman to come back to each of these, and make a detailed comment.

Mr. BELL (*Carleton*): Thank you.

Mr. DAVIDSON: I wonder if we have completed to the satisfaction of the members of the committee, for the time being, the clarification of what is in the minds of those of us who have worked on the draft bill in so far as subheading (vii) is concerned. If that can be assumed for the time being, then we move on to the definition (v) which I think presents no problem.

Subclause (w), which is "process for resolution of a dispute", refers, of course, to the two avenues opened up by this legislation for dispute settlement. The substance of this matter, I think, can better be dealt with by the committee at the time we come to the substantive clauses, and this merely makes it clear that when reference is made to the process for resolution of a dispute it can be one of the two processes detailed in later clauses of the bill.

"Public Service" is defined here in relation to all departments and portions of the public service set out in Schedule A to the act, which includes both Part I and Part II.

The definition of "remuneration", I think, requires no elaboration. It is phrased in such a way as to make it clear that members of the public service staff relations board, or other bodies set up under this legislation, may be paid either

on a per diem basis or on a full-time basis, depending on the circumstances in the individual case.

"Separate employer" is a reference to Part II of Schedule A. We can examine in detail, when we come to the schedule of the bill, if the members so desire, the reasons which have prompted us to suggest that certain agencies of the government be treated as separate employers. This is merely for the purpose of making a definition that refers to the actual list set out in Part II of schedule A.

The next definition is, of course, the definition which is required by the provisions of the bill that make it open to employees, who have chosen the route other than arbitration, to resort to a work stoppage if circumstances arise under which the legislation so permits.

Mr. KNOWLES: You have no definition of a lock-out.

Mr. DAVIDSON: We have no definition of a lock-out, because there is no provision made for recognizing the right of the employer to resort to a lock-out under this legislation, as there is, I believe, in the I.R.D.I. Act.

Mr. KNOWLES: I trust that that belief is well founded.

Mr. DAVIDSON: Well, I can assure Mr. Knowles and members of the committee that the fact that there is no provision for lock-out in this legislation is not accidental. It was the deliberate view of those who worked on this legislation that although, under certain circumstances as outlined in the bill, there should be recognition of the right of employees who were not interested in following the course of compulsory arbitration to resort to the strike, this should not be countered by any provision that in any way authorized the right of the employer to resort to lock-out.

Mr. BELL (*Carleton*): This is in almost identical terms, is it not—I am looking for it—to the Industrial Relations and Disputes Investigation Act?

Mr. DAVIDSON: It is the identical terms Mr. Bell, down to the word "understanding". The reference to a "slow-down" has been added. The purpose of this is to make it clear that, in the case of the bargaining units which resort to the avenue of compulsory arbitration, it is not open to them to resort to strike action; and, equally, that is not open to them to evade the prohibition on strike action by resorting to slow-downs.

Mr. BELL (*Carleton*): Yes: I think that is the very point on which the letter carriers' union took exception to this particular definition. They objected to it on the grounds of the slow-down or other concerted activity, as being not really part of a work stoppage. I do not know whether you have had a chance to consider their brief on that yet.

Mr. DAVIDSON: Yes, sir, I have; and I would have to argue, I think, that in the circumstances with which we are concerned with this legislation this is an important and essential part of this definition.

Mr. KNOWLES: What about "working to rule"?

Mr. DAVIDSON: Well, "working to rule" is not covered by this definition, Mr. Knowles; and I would confess to finding some difficulty in accepting the proposition that an employer who has made the rules should then include, in a definition of this nature, a provision which would mean, in effect, that those who worked to the rules that the employer had created were resorting to strike action.

Mr. KNOWLES: Well, I would not expect you to include that in the definition, but is there not a danger that this wording, namely "a slow-down, or other concerted activity on the part of the employee designed to restrict or limit output," might be used against employees who had, in their terms, simply decided to work to rule? Working to rule on the part of the post office employees, in effect, slows down the normal rate of production. The employees say, "We have not struck; we are just working to rule," but the employer comes along and says, "Oh, you have slowed down. You are covered. This is a strike."

Mr. DAVIDSON: Well, I think this would then be a matter of interpretation by the courts, or by the Public Service Staff Relations Board, whether or not it was, in effect, a concerted activity on the part of employees, designed to restrict or limit output; and if it were contended by the employees concerned that this was, in fact, nothing more than compliance with the requirement that the employer had imposed on them, it seems to me that under any reasonable interpretation the Public Service Staff Relations Board would have difficulty in accepting the employers' contention that this came under the definition of "strike".

Mr. KNOWLES: This is why I emphasize Mr. Bell's reminding us of trouble here. Let me divide the two parts. "A slow-down—designed to restrict or limit output—" under this definition, then, is a strike; but a decision in concert to work to rule, which, let us admit, is designed to slow-down output for the recognized purpose, is, then, attacked under this section as a strike and yet all that the employees are doing is working to the rules that the employers have laid down.

Mr. DAVIDSON: Well, if that is all they are doing it is not a strike. But if they are doing this as a result of a concerted action on their part, that can be proven to be designed for the purpose of restricting or limiting output, then I think that I would have to agree that it is covered by this. But this is a matter of determination of what the intent or purpose of compliance with the work rules is in a given situation.

Mr. KNOWLES: Is this some legal doctrine of *mens rea*?

Senator CAMERON: The implications of this go far beyond this particular act. There is the implication that management has the responsibility of seeing that their rules are brought up to date. For example, working to rule on the CNR means, on runs through Nakina, going down to five miles an hour on every curve. This is nonsense, but that is the fault of management. You could go through the postal department and find the same kind of illustration. I do not know that that comes in here, so that you are correct in your interpretation; but the working to rule element should not come in if management has done its job. It obviously has not done it in the case of the railways or in the case of the postal employees.

Mr. DAVIDSON: It might, or might not, help the committee in its consideration of this point to note that in the Ontario Labour Relations Act, for example, the definition of "strike" is, I think, word for word, the definition that we have proposed here. There is that precedent for this definition.

I am not quite clear on whether or not this is a definition that has been adopted since 1960, or when this definition came out. It is an old definition, I am told.

Mr. BELL (*Carleton*): My own reaction to this is that the definition of "strike", whether it is in the public sector or in the private sector, ought to be the

same. It may be that the I.R.D.I. Act ought to be updated; I do not know. I am not suggesting, necessarily, that that is the case, but I do have some hesitation in seeing the two acts in this particular getting out of consonance.

Mr. DAVIDSON: I think this is a valid enough point, Mr. Chairman, but this committee has not got the mandate to consider what amendments, if any, should be proposed to the I.R.D.I. Act. I can only say that in our opinion this is a necessary part of the definition of "strike" in the civil service. It will be left to the committee to decide.

Mr. KNOWLES: Are prayer meetings also outlawed by this? I am assuming that at least Dr. Davidson knows what a prayer meeting is?

Mr. DAVIDSON: With my Presbyterian background, Mr. Chairman, I always thought the prayer meeting was designed for promoting one's eventual arrival in a higher sphere, not for the purpose of restricting or limiting output.

Mr. KNOWLES: It is euphemism for meetings that are sometimes held, and there is the Bill of Rights which protects religious freedoms.

Mr. DAVIDSON: That is right.

Mr. KNOWLES: I appreciate the point you are making, Dr. Davidson, but I still have a little apprehension about this wider definition. Perhaps I used a bit of jest, but these are the kinds of things, prayer meetings and working to rule, that could get us into trouble.

Mr. DAVIDSON: I must say I do not quarrel with that expression of concern on Mr. Knowles' part. I can only add that in the view of those of us who have worked on this the definition that we have proposed here is one that this committee should approve. We would not propose another one.

Senator DESCHATELETS: Moreover, if I understand correctly, this is a definition which has proved its effectiveness, because you say it is nearly word for word the definition appearing in another act.

Mr. DAVIDSON: Mr. Chairman, I would not say from my own experience that it is a definition which has proved its effectiveness. I would, however, say that it is the definition which has been considered necessary in the legislation of the province of Ontario.

Mr. BELL (*Carleton*): If you can assure us that that is the wording in Saskatchewan, Dr. Davidson, I think the problem will be all resolved.

An hon. MEMBER: Amen.

Mr. KNOWLES: It is not the definition in the I.R.D.I. Act? Did I hear an "amen"? We are having a prayer meeting of our own, are we?

The JOINT CHAIRMAN (*Mr. Richard*): Where do we go from here? It is 9.30. Shall we proceed with the next group of sections?

Mr. WALKER: Mr. Chairman, I am always interested in tying up little bundles as we go along. Would it create confusion if we approved the ones on which there has been discussion? When I say that I mean those on which there has been general agreement that they are all right.

Mr. KNOWLES: There are too many cases where Dr. Davidson has said that we will have to have further discussion or where the staff people have amendments to make.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think we could do that, Mr. Walker. We should rather deal with the whole section.

Are you ready to go ahead?

Mr. DAVIDSON: It is at this point, Mr. Chairman, that I think my proposal of earlier today becomes relevant. I would propose now to deal with the block of sections which deal with the extent of the application of this legislation, and for the convenience of the members my general remarks which will follow will relate to clauses 3, 4 and 5 inclusive, and also to clause 113.

Perhaps I could just read, for the benefit of the members of the committee, the notes which have been prepared for me, and after that we will direct some of our attention, if the members so desire, to the chart which is being placed on the easel.

The enactment of these provisions in the legislation before the committee will have the effect that all portions of the public service except the armed forces and the uniformed and specially-exempt personnel of the R.C.M.P. will have been brought under collective bargaining legislation, either under the I.R.D.I. Act or under this bill when it is enacted. The effect of these provisions is to ensure that there will be no groups who will fall between these two stools, except for the members of the armed forces and the uniformed and specially-exempt personnel of the R.C.M.P.

The legislation applies to all portions of the public service for which the Treasury Board, the Governor in Council or a minister of the Crown is authorized to establish some or all of the terms and conditions of employment. More specifically, the legislation applies to government departments, those portions of the public service specified from time to time in Schedule A, including even those corporations that may be excluded from the I.R.D.I. Act. The specific exclusions, which will not be covered under this legislation, are the members of the armed forces, the uniformed and specially-exempt personnel of the R.C.M.P. and the employees of corporations which have the full freedom to determine their own terms and conditions of employment and which for that reason have been not excluded from the provisions of the I.R.D.I. Act.

When we turn to the schedules attached to this legislation we will find that Part I lists those portions of the public service which, together with departments named in schedule A of the Financial Administration Act, will be represented in the bargaining process by the Treasury Board as employer.

Part II of Schedule A lists those portions of the Public service which will have the status of separate employers. These are agencies which have traditionally enjoyed considerable freedom in determining terms and conditions of employment, in respect of which it is considered to be desirable that they should continue to enjoy that degree of freedom and therefore they are classified as separate employers who have the responsibility for carrying out their collective bargaining directly with their own employees.

Under clause 4 of the bill before us the Governor in Council has the authority to bring any portion of the public service, heretofore or hereafter established, under the act. This looks to the future and to a time when, under circumstances that we cannot at the moment predict, the Governor in Council may create new entities within the public service that may be brought under this legislation through the authority given to the Governor in Council under Section 4 of the act.

The Governor in Council's authority to bring new entities of the public service under this legislation does not, however, apply to a corporation coming within the jurisdiction of the I.R.D.I. Act unless two things happen—unless the corporation has been specifically excluded from the I.R.D.I. Act, and unless there exist, in the terms and conditions under which that corporation is established, certain provisions which result in its not having the full authority to establish its own terms and conditions relating to its employees' conditions of employment.

Clause 5 provides for transfers. Under clause 5 the Governor in Council may transfer any portion of the public service from one part of Schedule A—that is, the part for which Treasury Board is responsible—to another part, the part for which separate employers are responsible, or he may do that in reverse.

This authority applies also to corporations listed in Schedule A that may have been excluded from the I.R.D.I. Act. Deletion of a corporation, which has not been excluded from the I.R.D.I. Act but which has been listed in Schedule A, from one portion of the schedule would make it necessary for that corporation to be brought back under the provisions of the Industrial Relations and Disputes Investigations Act.

With that explanation of a general nature, Mr. Chairman, perhaps I could direct your attention now to the chart on the easel in the corner. Perhaps I could ask Mr. Love, if he would not mind, to take over from this point and to take the members briefly through the display that is shown on this chart relative to the application of this bill and the application of the I.R.D.I. Act.

Mr. KNOWLES: Perhaps for the benefit of those who will be reading Minutes of Proceedings and Evidence this chart could be reproduced at this point?

Mr. LOVE: Yes, it could be done. As a matter of fact, I think it has already been done.

Mr. KNOWLES: I mean to have it in our printed documents.

The JOINT CHAIRMAN (*Mr. Richard*): To be printed in the proceedings?

Mr. KNOWLES: To be printed in the proceedings at this point.

The JOINT CHAIRMAN (*Mr. Richard*): It is agreed?

Some hon. MEMBERS: Agreed.

Mr. LOVE: Mr. Chairman, this is an effort to simplify the provisions of the bill with respect to application. You will notice there is a heavy line here which attempts to illustrate the fact that these employees fall within the provisions of the I.R.D.I. Act, and these employees under the proposal, would fall under the provisions of the Public Service Staff Relations Act.

Mr. BELL (*Carleton*): The first "these" was below the line and the second "these" was above the line.

Mr. DAVIDSON: Mr. Chairman, might I interrupt for a moment. Is it possible to put a microphone closer to Mr. Love so that everyone can hear what he is saying?

Mr. BELL (*Carleton*): It would be of assistance if you would indicate whether you are talking about below or above the line.

Mr. LOVE: Above the line, we have really three main groups of employees who would be governed by the Public Service Staff Relations Act: that is, civil

servants; what is described here as exempt, departmental employees, which includes the very large group of prevailing rate employees; and employees of independent agencies, by which is meant agencies that up until now have had a large degree of freedom in establishing their own terms and conditions of employment.

You will notice that we use the phrase "central administration". This is a phrase that was coined in the course of the Preparatory Committee studies to encompass all the employees for whom the Treasury Board would function as the employer.

This represents the agencies that would ride under the bill as separate employers and would have the authority to bargain collectively with their own employees under the provisions of the Public Service Staff Relations Act.

Under the provisions of the Industrial Relations and disputes Investigations Act the employees of commercial Crown corporations are covered, unless the Governor in council takes action under, I think, section 54 of that act to exclude a particular corporation from the provisions of the I.R.D.I. Act.

What we have attempted to work on here, is the principle that no significant block of employees, other than the armed forces and the R.C.M.P. personnel to whom Dr. Davidson has referred, would fall between the two stools. The basic proposal is that if a corporation which would normally fall under the I.R.D.I. Act is excluded from that act by action of the Governor in Council, it would automatically have to come under the Public Service Staff Relations Act.

It is a fairly complicated problem in so far as commercial Crown corporations are concerned, complicated as far as the expression in law is concerned, although, in fact, at the moment, I believe only one corporation has been excluded from the provisions on the I.R.D.I. Act, namely, the National Research Council. The National Research Council would fall under the provisions of the Public Service Staff Relations Act; it is one of the agencies identified as a separate employer.

This, in effect, represents the agencies and departments that are identified in Part I of Schedule A, and this represents the agencies that are identified in Part II of Schedule A.

I think, perhaps, Mr. Chairman, that is it.

Mr. KNOWLES: What is the significance, Mr. Love, of the rectangle in the lower left hand corner?

Mr. LOVE: This one?

Mr. KNOWLES: Yes. You might read it, for the record.

Mr. LOVE: Private companies within federal jurisdiction. The only significance is that we wanted to indicate the total coverage of the I.R.D.I. Act. The basic coverage is represented by this lower block but we wanted to point out that the I.R.D.I. Act also applies to employees of commercial Crown corporations.

Mr. KNOWLES: It is fair to say that what you are trying to show by this chart is that when all this is enacted we will have collective bargaining for everybody who comes under federal jurisdiction?

Mr. LOVE: That is correct, sir; with the exclusions that have already been discussed.

Mr. KNOWLES: And Parliament Hill?

Mr. LOVE: That is right, sir.

Mr. BELL (*Carleton*): Mr. Love says that automatically any Crown corporation that is excluded under Section 54 would be brought under C-170. I want to be absolutely clear that such is the case. It may be that it is from the combined operations of clauses 4 and 5. It certainly is not from clause 4. Clause 5 may bring it in.

Mr. DAVIDSON: Would you take a look at clause 113(2), Mr. Bell?

Mr. BELL (*Carleton*): This becomes automatic. If there is an exclusion under Section 54 of the I.R.D.I. Act it now must come in under this act.

Mr. DAVIDSON: That is correct; and could I point out, further, Mr. Bell, that the effect here, as I understand it, is to limit very considerably the powers of the governor in council henceforth under Section 54 of the I.R.D.I. Act. Section 54 of the I.R.D.I. Act at the present time gives the governor in council the authority to exclude "any corporation established to perform any function or duty on behalf of the Government of Canada." Henceforth it will be possible for the governor in council to exclude corporations from the I.R.D.I. Act only if the terms and conditions under which they are established give them less than complete jurisdiction in respect of their own employer-employee relationships—to the extent that there is any withholding from the corporation and vesting in the Treasury Board, let us say, of any of the authorities over the terms and conditions of employment in that corporation. Only if that is done, will it be possible for the corporation to be excluded from the provisions of the I.R.D.I. Act, and if that is done it must be brought under the provisions of the Public Service Staff Relations Act.

I will cite, as an example, the National Film Board. This is a hypothetical case, because in fact I think it is not a crown corporation in the strict sense of the word. But let us take a corporation such as the National Film Board would be if it were established as a crown corporation. Let us assume that it was set up under the present circumstances. The film board at the present time does have in very large areas of its employer-employee relations jurisdiction within the board itself. On the other hand, the act makes clear that there are certain areas of employer-employee relations where the film board is dependent upon the authority given by the Treasury Board. If such a corporation were set up in the future it could be excluded from the I.R.D.I. Act, but in that event it would have to be brought under the provisions of the Public Service Staff Relations Act; and if the act establishing such a corporation were not to have any provisions restricting the jurisdiction of the corporate body with respect to its own employees, then in that event it would not be open to the governor in council to resort to Section 54 to exclude that corporation from the provisions of the I.R.D.I. Act.

Mr. KNOWLES: Mr. Chairman, as we all know, the employees of the printing bureau would like to have their part of the public service treated as a separate employer. Am I correct in believing that, under the legislation as it is worded, that shift could be made by an order of the governor in council? Clause 4 of the bill is the one I would rely on.

Mr. DAVIDSON: Mr. Chairman, in reply to Mr. Knowles' question, there is included in Schedule A, Part I, a portion of the public service designated as the Government Printing Bureau. It would be open to the governor in council, under Clause 5 relating to transfers within schedule A, to transfer the Government Printing Bureau from Part I of Schedule A to Part II of Schedule A.

Mr. KNOWLES: We could seek to amend the schedule ourselves here in this Committee but even if we were not successful it could be still done later by the governor in council, if it were so persuaded.

Mr. DAVIDSON: Nothing that you fail to do in this Committee would restrict the powers of the governor in council in this matter.

Mr. KNOWLES: If the law permitted to do what you have failed to do.

Mr. BELL (*Carleton*): Be careful!

Mr. DAVIDSON: That is not a legal opinion.

Mr. BELL (*Carleton*): The governor in council knows that nothing restricts their powers if it is within the law.

Mr. KNOWLES: Mr. Chairman, as we know, because we have been over it so often, the two groups whose requests are before us are the printing bureau people, which we have just discussed, and the postal workers, who prefer to come under the I.R.D.I. Act. I take it that, as the legislation stands, that kind of a shift from the P.S.S.R.A. to the I.R.D.I.A. could not be made by an order of the governor in council?

Mr. DAVIDSON: That is correct.

Mr. KNOWLES: Therefore, if we want to achieve that we have to do it by amending the bill or by legislation of some kind?

Mr. DAVIDSON: I would think, Mr. Knowles, that it would probably be necessary to amend the I.R.D.I. Act. That could be done, presumably, by including in this bill a clause which would have the effect of making an amendment to the I.R.D.I. Act. However, if I recall correctly the only federal entities which can be considered for inclusion in the I.R.D.I. Act are entities which are corporate in nature.

Mr. KNOWLES: I am looking again at that chart and the broad line is something like the "pearly gates"—it works only one way. It is not too difficult to be moved from the I.R.D.I. Act to the P.S.S.R. Act but it is difficult to be moved the other way.

Mr. DAVIDSON: On the contrary, it is difficult to be moved from the I.R.D.I. Act to the Public Service Staff relations act for the reasons that I have already mentioned. It is very easy for a corporation to be moved now, at the moment, but the effect of this bill, and of the clause which we are discussing in this bill, will be to make it impossible for a corporation to be moved from the I.R.D.I. Act sector to the public service staff relations sector unless there have been imposed on the powers of that corporation limitations on its ability to deal in all respects with its own employees independently of the Treasury Board in terms of the conditions of employment applying in that corporation.

If you set up a crown corporation at any time in the future and that crown corporation is established on the basis that gives it full rights to deal with

its own employees—to set their wages and working conditions without reference to the Treasury Board—then that corporation must remain under the Industrial Relations and Disputes Investigation Act. If you have put in the bill creating that crown corporation some provision that says it can only set wages and working conditions with the approval of the Treasury Board, then, and only then, can the governor in council resort to Section 54 to exclude that corporation from the I.R.D.I. Act. If that is done it falls automatically under the public service staff relations act. So that the “pearly gates”, as you said, Mr. Knowles, are being closed.

Mr. KNOWLES: But they do not provide movement the other way at all.

Mr. DAVIDSON: As an example of where movement the other way is provided for, let us take the National Research Council. If it was decided to delete the National Research Council from Part II of Schedule A, that is to say, to remove it from the Public Service Staff Relations Act, Part II, it would have to be transferred to the jurisdiction of the I.R.D.I. Act. This is on the assumption that the NRC has full control over the conditions of employment of its employees.

Mr. BELL (*Carleton*): I have one other matter to raise in connection with this, and it really would perhaps be more appropriate when we come to clause 115 in the report to parliament, but I would like to flag it now. I would venture to suggest that such orders as the governor in council may make in relation to clauses 4 and 5 ought to be specially reported to Parliament. Provision should be made in clause 115 to do this. In other words, there should be a specific provision in clause 115 that any order made pursuant to clauses 4 and 5 shall be reported to Parliament.

Mr. KNOWLES: All orders having legislative effect have to be reported.

Mr. BELL (*Carleton*): I raise this deliberately because I am not sure that these do have legislative effect. It may well be that this is an excess of caution, but in any event I would like to see that there is in clause 115 the provision that such orders as may be made shall be reported annually to parliament in the annual report.

Mr. KNOWLES: Could you hold over clause 113.

Clause 3, 4 and 5 inclusive agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We will adjourn until Tuesday, because Dr. Davidson cannot be with us tomorrow. I would hope that the Committee will really get to work next week.

Mr. KNOWLES: What do you think we have been doing?

The JOINT CHAIRMAN (*Mr. Richard*): I am sorry; I do not mean it that way. We have not had very many meetings.

We will meet on Tuesday, Thursday and Friday. On Tuesday I hope that we will have two or three meetings, and also on Thursday. I would like to see the Committee complete its study of this bill in the next two weeks, if possible in order to carry out our responsibility of trying to get this bill out before December 1.

Thank you very much.

APPENDIX "R"

APPLICATION

(On Clause 2)

CIVIL SERVANTS	CENTRAL ADMINISTRATION	PUBLIC SERVICE STAFF RELATIONS ACT
EXEMPT DEPARTMENTAL EMPLOYEES		
EMPLOYEES OF INDEPENDENT AGENCIES		
EMPLOYEES OF COMMERCIAL CROWN CORPORATIONS		INDUSTRIAL RELATIONS AND DISPUTES INVESTIGATION ACT
EMPLOYEES OF PRIVATE COMPANIES WITHIN FEDERAL JURISDICTION		

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The Clerk of the House.

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 19

TUESDAY, NOVEMBER 22, 1966

Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), Treasury Board; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Knowles,
Mr. Lachance,
Mr. Leboe,

Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Rochon,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 22, 1966

(34)

The Special Joint committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.19 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present;

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Hymmen, Knowles, Lewis, McCleave, Orange, Richard, Walker (10).

Also present: Mr. Patterson.

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Co-ordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered Bill C-170 clause by clause and questioned the witnesses thereon.

Clause 6, carried; Clause 7, stand; Clause 8, carried as amended (see motion below); Clause 9, carried; Clause 10, carried; Clause 20, carried as amended (see motion below); Clause 21, carried; Clause 106, carried; Clause 11, carried; Clause 12, carried; Clause 13, carried; Clause 14, carried; Clause 15, carried; Clause 16, stand; Clause 17, carried as amended (see two motions below); Clause 18, stand; Clause 19, stand; Clause 22, Carried; Clause 23, stand; Clause 24, carried; Clause 25, stand.

Moved by Mr. Lewis, seconded by Mr. Walker,

*Agreed,—*That Sub-clause 8(3) and the marginal note pertaining thereto lines 16 to 20 inclusive page 7 be deleted.

Moved by Mr. Lewis, seconded by Mr. Walker,

*Agreed,—*That sub-Clause 20(1) be amended by deleting the word "may" after the word "Board" line 38 page 11 and substituting the word "shall" therefor subject to further commentary from the Secretary of the Treasury Board on the advisability of such amendment.

Moved by Mr. Knowles, seconded by Mr. Orange,

Agreed,—That sub-clause 17(2) be amended by deleting the words “*Civil Service Act*” after the word “the” line 4 page 10 and substituting therefor the appropriate title required when consideration of Bill C-181 is completed in the Committee.

Moved by Mr. Knowles, seconded by Mr. Orange,

Agreed,—That sub-clause 17(3) be amended by deleting the words “on behalf of the Board” after the word “Chairman” line 5 page 10.

The Committee agreed to print the following as appendices to today's proceedings:

Association of Postal Officials of Canada, letter dated November 15, 1966; (See Appendix S)

Chart depicting Commencement of Collective bargaining. (See Appendix T)

Discussion of Clause 26 continuing at 12.30 p.m., the meeting adjourned to 4.00 p.m. this same day.

AFTERNOON MEETING

(35)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 4.13 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presided.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis (3).

Representing the House of Commons: Messrs. Bell (Carleton), Émard, Hymmen, Knowles, Lachance, Lewis, McCleave, Orange, Richard, Walker (10).

In attendance: (As for morning sitting and Mr. C. A. Edwards, President, Public Service Alliance of Canada.

The Committee agreed to print a letter from the Public Service Alliance of Canada dated November 18, 1966, as an appendix to this day's proceedings (See Appendix U) and questioned the representative thereon.

The Committee continued the clause by clause review of Bill C-170 as follows:

Clause 26, stand; Clause 27, stand; Clause 28, stand; Clause 29, stand; Clause 30, carried; Clause 31, carried with amendment to the marginal note (see comment below); Clause 32, stand; Clause 33, carried; Clause 34, stand; Clause 35, carried as amended (see motion below); Clause 36, stand; Clause 37, stand; Clause 38, stand.

The Committee agreed to the suggestion of the Secretary of the Treasury Board that the marginal note to Clause 31 be amended by deleting the last two words “one year” and substituting “six months” therefor.

Moved by Mr. Walker, seconded by Mr. Orange,

Agreed,—That paragraph (d) of sub-clause 35(1) lines 14 to 17 inclusive page 18 be deleted.

The meeting adjourned at 5.50 p.m. to 9.00 p.m. this day.

EVENING SITTING

(36)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met at 9.15 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Choquette (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Crossman, Émard, Hymmen, Lachance, Lewis, McCleave, Richard, Walker (10).

Also present: Mr. Mackasey.

In attendance: (As for morning sitting).

The Committee resumed consideration of Bill C-170 as follows:

Sub-clause 39(1), carried; sub-clause 39(2) stand; sub-clause 39(3), carried as amended (see motion below); Clause 40, carried; Clause 41, carried; Clause 42, carried; Clause 43, carried as amended (see motion below); Clause 44, carried as amended (see motion below); Clause 45, carried; Clause 46, carried; Clause 47, carried; Clause 48, carried; Clause 49, carried; Clause 50, carried; Clause 51, carried; Clause 52, stand; Clause 53, carried; Clause 54, carried; Clause 55 stand.

Moved by Mr. Lewis, seconded by Mr. Émard,

Agreed,—That the word "sex," be added in sub-clause 39(3) line 36 after the word "his".

Moved by Mr. Walker, seconded by Mr. Crossman,

Agreed,—That the words "it appears to" line 3, subclause 43 (1) page 23 be deleted and the words "is satisfied" be substituted therefor after the word "Board"; and that the word "may" line 6 be deleted and the word "shall" substituted therefor.

Moved by Mr. Walker, seconded by Mr. Crossman,

Agreed,—That the words "In addition to the circumstances in which, pursuant to section 41, 42 or 43, the certification of a bargaining agent may be revoked," lines 13, 14, 15 Clause 44, be deleted.

The Committee agreed to include the following proposed motions into the record for consideration by the Treasury Board representatives, on which proposed motions there was no discussion:

Moved by Mr. Émard, seconded by Mr. Lachance,

That sub-clause 32(1) be deleted and the following substituted therefor:

"(1) Where one or more employee associations have made application to the Board for certification as described in section 27, the Board shall, subject to subsection (3) of section 26, determine the relevant group of employees that constitutes a unit appropriate for collective bargaining."

That sub-clause 32(2) be amended by adding the following words after the word "unit" line 42:

"and the particular common interests of the one or more groups."

That Clause 34 be amended to read as follows:

"Where the Board

- (a) has received from an employee organization an application for certification as bargaining agent for a bargaining unit in accordance with this Act,
 - (b) has determined the group or groups of employees that constitute a unit appropriate for collective bargaining in accordance with section 32,
 - (c) is satisfied that at least 10% of the employees in the bargaining unit wish their own employee organization to represent them as their bargaining agent, and
 - (d) is satisfied that the persons representing the one or more employee organizations in the making of the application have been duly authorized to act for the members of the associations in the regulation of relations between the employer and such members,
- the Board shall, subject to this Act,
- (e) certify the one or more employee organizations making application as bargaining agent for the employees in that bargaining unit as being part of the bargaining committee of that unit,
 - (f) determine that there is but one collective agreement and but one bargaining committee for each unit,
 - (g) determine that all associations representing at least 10% of the employees of any given unit, having particular common interests, are certified automatically and have the right to take part in collective bargaining."

The meeting adjourned at 10.15 p.m., to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 22, 1966

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we have a quorum.

At our last meeting we had reached clause 6 which is on page 6 of Bill No. C-170. Dr. Davidson?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, we open the discussion this morning on the second bloc of clauses dealing with basic rights and prohibitions. This covers clauses 6 to 10 inclusive of the bill, and also, looking forward, it refers to clauses 20 and 21, and finally, to clause 106. In large part these sections are designed to guarantee the right of an employee to join an employee organization, to protect the employee organization from employer interference and to preserve the authority of the employer in matters relating to the organization of the public service.

Specified actions on the part either of the employer or an employee organization, which would interfere with the exercise of these rights, are prohibited. Such provisions are common to most labour relations statutes in Canada and are comparable generally to those set forth in section 4 of the I.R.D.I. Act.

In the enforcement of these provisions the board, pursuant to later clauses, namely, clauses 20 and 21 will have authority, first of all, to investigate complaints alleging violations of the provisions of clauses 8, 9 and 10; it will also have the authority to issue cease and desist orders; it will have authority to report to Parliament in the event of non-compliance with these orders; and, finally, pursuant to clause 106 of the bill, it will have the authority to give its consent to prosecutions through the courts for failure to comply with cease and desist orders.

This is, in substance, Mr. Chairman, the content and the intent of the provisions set out in clauses 6 to 10; the later clauses which follow are designed to outline the authority of the board and the consent that is required of the board before prosecutions through the courts could take place.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed with clause 6, then?

Mr. LEWIS: Mr. Chairman, I would like to know what is meant by the term clause 2 dealt with?

The JOINT CHAIRMAN (*Mr. Richard*): The whole thing was discussed, yes, Clause 6 agreed to.

On clause 7—*Right of employer*

Mr. LEWIS: Mr. Chairman, I would like to know what is meant by the term "to determine the organization of the Public Service"? How far does that go?

Dr. DAVIDSON: For one thing, Mr. Chairman, it would cover the decision of the government to create a new department; to transfer functions as between

one department and another; to establish branches or divisions within a department to make structural changes of the kind that I have indicated by way of illustrations; it would mean, for example, the determination of whether or not a program should be administered and the organization structured accordingly on a regional basis, or a central basis; it would extend to the opening up of local offices, and matters of that kind would be contained within the expression "organization".

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 7 carry?

Mr. LEWIS: Just a moment, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Lewis?

Mr. LEWIS: Would Dr. Davidson object to adding at the end of clause 7 after the words "to assign duties to employees," words which would suggest that that assignment would not be contrary to any provision of the collective agreement?

Dr. DAVIDSON: I would like to think about that, Mr. Lewis.

Mr. LEWIS: You do get my point? When you talked about determining the organization of the public service I thought your answer would be along the lines it was. What you are saying is that you want the right to run your business, which is correct. You want to have unlimited authority to group and classify positions therein. We discussed that in Bill No. C-181. But when you come to assigning duties to employees you could easily have some provisions in a collective agreement with regard to the workload, or, if you had a craft situation, with regard to the craft, and I think that that assignment of duties to employees should be subject to any provision that there may be in a collective agreement affecting that authority.

Dr. DAVIDSON: I might just point out, in this connection, Mr. Chairman, that in the public service it has always been the practice to establish for each position and for each classification a statement of duties attaching to that position. Therefore, when reference is made to the classification of positions, it has to be understood that for each of the positions which is classified there is a written statement of duties attaching to that position; and it is considered that the employer should have the right to decide what written statement of duties should attach to any position.

Mr. LEWIS: I have no objection to that.

Dr. DAVIDSON: Then, continuing on from this, presumably in the bargaining process the employee organization—the bargaining agent—is entitled to ask for and to have before him at the time that he is bargaining on the pay to be attached to a position, a statement of the duties attaching to that position, that he will be in a position to evaluate what price tag should be put on that combination of duties which is comprised in the position that is classified by the employer as such and such a level of such and such a class.

Therefore, while the employer has the responsibility of classifying the position and prescribing the duties attaching to the position, the employee organization has the right to bargain on the value of that statement of those duties.

That having been done, Mr. Lewis, we then come to the final expression, "to assign duties to employees". It is clear that if the employer, having established a

classified position with a statement of duties attached to it, and having placed an employee in that classified position at the salary that has been negotiated, then proceeds to assign to that employee duties that do not correspond to the statement of duties that was attached to the position at the time it was classified and at the time that the collective bargaining established the pay rate, the employee concerned has the right to resort to the grievance procedure; and it is the grievance procedure which would protect the interest of the employee against the possibility that the employer might endeavour to assign to him duties that extended beyond the duties attaching to the position in which he has been placed.

Mr. LEWIS: I have no doubt about Mr. Davidson's intentions, or the intentions of others, but that is not what the act says. If the act says that you have the right to assign duties to an employee, what recourse have I got if I am an employee? Of what value is my grievance? This is not what it says. It says bluntly that you have the exclusive right—that nothing in this act shall be construed to affect your right. Well, that means that the employer has the exclusive right to assign duties to an employee.

I am suggesting to you that that is another unnecessary and unintended limitation on the collective bargaining process and that if you, therefore, qualify the assignment of duties to employees by the provisions of a collective agreement, if such provisions affect that, then I think you protect the right that you have just indicated. And the right goes a little further than that, because collective bargaining does not get into these watertight compartments. You may have a written set of duties, or the workload, or job content, or whatever you call it, relating to a particular class of employees, and it may easily be that one way of solving the problem of salary to be attached to a particular class is by shifting some duties from one class to another, and it will assist the collective bargaining process if that is open to the parties in negotiation as well as giving the employee the right of grievance without the employer having the opportunity to say: "Now, you just do as I tell you, because that is what the act says".

Mr. DAVIDSON: Mr. Chairman, I think I could go along with any suggestion that the bill should make explicit the right of the employee to grieve against an assignment of duties that was given to him that was inconsistent with the duties stated for the position. I think that would adequately protect the point that Mr. Lewis has in mind when he argues that this is a bald statement that the employer has, in effect, the right to assign to an employee any duties of any kind without regard to—

Mr. LEWIS: I am not arguing. I think that is what the language says.

Mr. WALKER: Mr. Chairman, I do not know if this is a variance with what is wanted, but could you tie this assignment of duties in with the classification or reclassification programs? I do not know whether this covers your point, Mr. Lewis, but what about wording it "to assign duties to employees in accordance with classification or reclassification procedures or programs"? Would that meet your point, by tying it to giving you the authority still to carry out your classification and reclassification programs? If it were tied to the classification and reclassification programs under our grievance procedures which are also tied to the reclassification, would this not clear up Mr. Lewis' point? Or does it disrupt something that you had in mind?

Dr. DAVIDSON: Basically, this would meet the concern that I have expressed, that the employer should have the authority to prescribe the duties of a position.

Mr. LEWIS: I am not quarrelling with that.

Mr. WALKER: I wanted to go beyond—

Mr. LEWIS: The difference is, from my reasoning as a lawyer, that you classify positions, you do not classify employees. The employer classifies a position which is a column within which a number of employees would fall. That is one thing. I am not questioning that right of that. Some of us believe that unqualified authority in the employer is also a limitation, but that is a different subject. But the next provision does not talk about positions, it talks about people. It is assigning duties to employees, as individual employees, and it is that part which I think is objectionable. It is really contrary to the intention you have in mind.

Dr. DAVIDSON: Mr. Chairman, I would quite agree.

Mr. LEWIS: If you are ready to consider it I do not need to take any more time. You can see what you can do with it.

Dr. DAVIDSON: We will certainly be glad to look at it.

Mr. BELL (*Carleton*): I wonder if it might not actually be fixed up by just a few words, and have it read this way: "To group and classify positions therein, and, in accordance therewith, to assign duties to employees."

Mr. WALKER: You are tying it into the classification by judicious language—

Mr. BELL (*Carleton*): I think that is the point.

Dr. DAVIDSON: Something along this line, I think, would go a long way to meeting our concern and possibly Mr. Lewis' concern. There is one thing I would like to be sure of in an examination of words of that kind. I would like to be sure that this would not prevent the employer in the changing course of events—

Mr. LEWIS: Exactly; this makes it far too rigid. You see, what you have when you do that, is that you set the job content of the position on January 1 and you are stuck with it, and you cannot make differences in assignments required by changes in operations or in methods or in procedures. I am not seeking to limit you that way, because that makes it inefficient. All I am saying to you is that my suggestion, in general terms, is the better one because it does not tie you; it still leaves you the right to classify. Everybody knows that if you classify a position you have to deal with its job and the job content and be able to make changes as changes are required. What you want is a qualification which brings in the collective bargaining process and if you say: "to assign duties to employees" and subject to the provisions of any applicable collective agreement, or subject to any applicable provisions of any collective agreement—something of that sort—that takes no power from you, but brings the collective bargaining process into effect. I would like you to think of that. The other is far more limiting and far too rigid.

Mr. BELL (*Carleton*): I think the point, Mr. Lewis, has been made, both by the federation and by the Professional Institute, in relation to this matter. The federation suggested that the phrase "subject to the provisions of any collective bargaining agreement" should be inserted in this section.

Mr. LEWIS: That is probably where I got the idea, although I did not recall it.

Dr. DAVIDSON: I would just like to say that we certainly will be glad to consider Mr. Lewis' and Mr. Bell's proposals.

I would, however, point out that this clause does not go quite as far as I think Mr. Lewis interpreted it to go. This does not confer any rights or authorities on the employer. This merely safeguards any rights or authorities that the employer may have in these areas. It merely says that nothing in this act shall be construed to affect the right of the employer. If the employer has rights, this does not invade those rights.

Mr. LEWIS: With great respect, Dr. Davidson, if you said "nothing in this section", or something, which would be meaningless, what you say with great respect, have some application, but the words in the section are "nothing in this act". That means no provision of this act can affect that authority. The collective bargaining provisions, or any other provisions, cannot affect that authority; and the only way your suggestion would have any application is if you could go back prior to this act and look at the other act and find out what the authority was, and has it changed or not, which seems to me to be a pretty futile exercise. This simply says that the act as a whole does not affect your authority, which means that you have exclusive authority.

Dr. DAVIDSON: It means that you have exclusive authority if you had exclusive authority—

Mr. LEWIS: Prior to this act.

Dr. DAVIDSON: Yes; but it does not convey by this act any authority which the employer does not have prior to the coming into effect of this act. You are a lawyer and I am not, Mr. Lewis.

Mr. LEWIS: The authority which you had prior to the coming into effect of this act is not limited to statutory authority, necessarily.

Dr. DAVIDSON: That is a matter which would have to be determined, as a matter of law, I take it?

Mr. LEWIS: Yes.

Dr. DAVIDSON: But in any event, I think there is some difference between the wording of the clause and the interpretation which you attribute to the clause.

We certainly will be glad to take a look at this proposal as it affects the final words of the clause.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 7 stands.

Clause 8—*Prohibitions*

Are there any comments on this clause? Dr. Davidson, do you have any comments?

Dr. DAVIDSON: No, sir. We have designed this in a straightforward fashion to try to prevent any person employed in a managerial capacity from interfering with the formation of a new employee organization—even interfering helpfully—because of the concern that might be felt in some quarters that the employer would endeavour to interfere helpfully by creating company unions.

Subclause (2) deals essentially with the possibility of interference by someone acting on behalf of the employer, because that person might either be acting of his own accord or acting as a result of pressure from one employee organization to discriminate against another employee organization.

Mr. LEWIS: Why do you need subclause (3), Dr. Davidson?

Dr. DAVIDSON: We do not, and I was going to suggest that we delete that subclause. We should take that out.

Mr. LEWIS: That is a detail which ought not to be in the act.

Dr. DAVIDSON: I could not agree more.

Mr. LEWIS: I move that subclause (3) of clause 8 be deleted.

Mr. WALKER: I second the motion.

Clause 8, as amended, agreed to.

Clause 9—*Discrimination against employee organization*

The JOINT CHAIRMAN (Mr. Richard): Dr. Davidson, do you have any remarks?

Dr. DAVIDSON: No, sir; this is fairly straightforward. It means that no person employed in a managerial capacity is entitled to discriminate against any employee organization, with the sole exception that if, at a later stage, an employee organization gains bargaining rights and the provisions of that collective agreement contain anything that would restrict the right of the employer to deal with other employee organizations who may have some claim to some membership in that group, the employer is not then subject to the accusation of discrimination if, in conformity with the provisions of that collective agreement, he deals exclusively with the bargaining agent and ignores, in the bargaining relationship, the other organizations. Subclause (2), however, goes on to say that subclause (1) shall not be interpreted in such a manner as to prevent the employer from receiving representations from, or holding discussions with, the representative of any other employee organizations even though that other employee organization may not be the bargaining agent for the group in question.

Clause agreed to.

On clause 10—*Soliciting membership during working hours*

Dr. DAVIDSON: This, I think, is a fairly standard provision in other legislation of the kind, Mr. Chairman.

Mr. LEWIS: Surely it is understood that under clause 10 an ordinary employee can talk union without being dismissed?

Dr. DAVIDSON: As it stands?

Mr. LEWIS: Any law that tried to—

Dr. DAVIDSON: This is not designed to interfere in any way with freedom of speech during working hours—

Mr. WALKER: Or coffee breaks.

Dr. DAVIDSON: —or talking out loud to yourself in the presence of others.

Clause agreed to.

On clause 20—*Complaints*

The JOINT CHAIRMAN (*Mr. Richard*): Have you any remarks, Dr. Davidson?

Dr. DAVIDSON: On clause 20 there was one suggestion which we think is based upon a misreading of this clause. It was suggested by, I believe, the Civil Service Federation that the word "may" in line one should read "shall". But in the view of the staff that has worked on this bill what is desired here is that the board shall be given authority to examine and inquire into these complaints.

Subclause (2) of clause 20 gives the board authority to issue compliance orders, and provides in clause 21 the action to be taken when orders are not complied with, and clause 106, toward the end of the bill, on page 48—

Mr. WALKER: What are we doing, clauses 20 and 21?

Mr. LEWIS: We are hearing a general description of the relationships.

Dr. DAVIDSON: Clause 106 provides for prosecution to be subject to the consent of the board.

The JOINT CHAIRMAN (*Mr. Richard*): Have you any comments?

Mr. BELL (*Carleton*): Except that, dealing with the federation, it would be preferable that this be imperative rather than permissive. That the board "shall" inquire and examine into any complaint made; and in subclause (2) that it "shall" make an order. It becomes imperative, I notice, in subclause (a).

Dr. DAVIDSON: This is a drafting point, Mr. Bell. I think I am right in saying there is frequently a good deal of discussion on whether "may" is permissive, or whether it is imperative in the sense that it is designed to endow the board with authority but to prescribe the board's duty.

Mr. BELL (*Carleton*): That is right; it might even be argued that it is imperative in its present form.

Mr. LEWIS: There is a very recent case—the 18th century—Julius and the Bishop of Oxford, that said: When "may" has a duty, or deals with what is the duty on the part of an authority, the authority has the duty to carry out what the act requires it to. I think you could have a compromise by having "shall" in (1) but leaving the "may" in (2). In other words, I think, perhaps you can satisfy the federation, without any violence to what you have in mind, by making it clearly obligatory for the board to make the inquiry, but leaving the question whether or not it makes an order to its discretion.

Mr. BELL (*Carleton*): Right.

Dr. DAVIDSON: I think we have no strong views on this Mr. Chairman.

Mr. LEWIS: I certainly would not change the second "may," too, because you cannot say that it must make an order. If its inquiry results in a conclusion that no order should be made, it should not have to make any. I think you might easily take "shall" instead of "may" in subclause (1) and leave the "may" in subclause (2).

Dr. DAVIDSON: Could we check that with the legal draftsmen and report back to the Committee on it? As far as I am concerned, Mr. Chairman, I can say that from our point of view, as a staff, we see no problem in adopting the clause with that amendment.

Mr. BELL (*Carleton*): Subject to Dr. Davidson taking exception later.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis moves that paragraph (1) of clause 20 read as follows: "The Board shall examine—" instead of "The Board may examine—".

Mr. CHATTERTON: Is it required in clause 20 that the complaint shall be in writing, for example?

Dr. DAVIDSON: This is what has bothered me a little bit about closing the door completely on this. I would wish to satisfy myself as to what constitutes "examine and inquire." If the board, for example, hears, in the course of some presentation, an incidental reference which someone later claims was really a complaint, and the board paid little or no attention to it because, circumstances of the presentation, it was really an aside, does this place upon the board the obligation to crank up this cumbersome machinery and have a royal commission of inquiry into that statement as a complaint.

Mr. LEWIS: You might be better off to say "into any written complaint."

Mr. CHATTERTON: If "may" is substituted by "shall" it might be advisable to make it a formal complaint, or a written complaint, to avoid misunderstanding.

Dr. DAVIDSON: Mr. Chairman, Mr. Roddick has drawn my attention to the fact that under clause 19(j), on the same page, there is provision that the board make regulations for the hearing of complaints under section 20. Therefore, I think this would remove any concern of mine on that point.

Mr. LEWIS: Oh, yes.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 20 carry?

Mr. WALKER: Subject to any future reference by Dr. Davidson.
Clause agreed to.

Mr. LEWIS: Dr. Davidson may change his mind.

Mr. KNOWLES: It is permissive only.

Dr. DAVIDSON: I assure the committee I will not change my mind. I am in agreement with the Committee so far as the principle is concerned. I may be obliged to report that some others, namely, the legal officers, have some views on this, but I cannot imagine that happening.

On clause 21—*Where order not complied with*

Mr. LEWIS: What good is it if you just lay it before Parliament?

Dr. DAVIDSON: I am surprised to hear that statement coming from you, Mr. Lewis.

Mr. LEWIS: Well, it is a long delay if Parliament does not happen to be in session. Is there something else in the act that relates to this?

Dr. DAVIDSON: There is the provision of clause 106, we are coming to.

Mr. LEWIS: The prosecution provision?

Dr. DAVIDSON: Yes; but I would point out that in clause 106 what is contemplated is that complaints under clauses 8, 9 and 10, with the consent of the Board, shall be dealt with under the general provision as I understand they

exist in the Criminal Code, that it is an offence to transgress the provisions of any legislation; and the effect of this is that if consent under clause 106 is given to prosecute for failure to obey an order of the board, the prosecution has to take place in that form rather than under this act itself. That is if I understand the position correctly.

Clause agreed to.

On clause 106—*Consent*

MR. KNOWLES: These prosecutions we are talking about could be directed either way?

DR. DAVIDSON: Yes.

MR. KNOWLES: Against the employer as well as against an employee?

DR. DAVIDSON: Yes, sir; against a person; and this would involve the person who failed to take whatever action he was required to take, and it could very well be the Secretary of the Treasury Board—

MR. KNOWLES: Hear, hear.

DR. DAVIDSON: —because in clause 20(2) you will see that these orders, when they are issued by the board in the case of that portion of the public service which comes under the Treasury Board's jurisdiction as an employer, are directed to the Secretary of the Treasury Board. They are directed to some other persons as well, and it would then be a determination of the person against whom the charge, that he failed to comply with the order, should be laid.

MR. LEWIS: Clause 106 does not deal with offences spelled out in this act in the same way as do Clauses 104 and 105. As I understand it, what you are relying on in clause 106 is the general provision in the Criminal Code which makes it an offence for anybody to violate an act of Parliament, or of a legislature. You would have to go to the Criminal Code to lay the prosecution under clause 106?

DR. DAVIDSON: Correct.

MR. KNOWLES: If you get into trouble, Dr. Davidson, may I remind you that some of your best friends are lawyers.

DR. DAVIDSON: Should that be a consolation to me, Mr. Knowles?

MR. LEWIS: Do you want to get this act through, or not?

Clause agreed to.

THE JOINT CHAIRMAN (*Mr. Richard*): Now we come to the other group of clauses you mentioned the other day, Dr. Davidson, namely, those under the public service staff relations board, clauses 11 to 25.

DR. DAVIDSON: Could we have permission, Mr. Chairman, to rotate our team at this point and have Mr. Love respond to this group of clauses?

MR. J. D. LOVE (*Assistant Secretary (Personnel) Treasury Board*): Mr. Chairman, the block in question deals with clauses 11 to 25, excluding the ones we have already dealt with. These clauses deal with the constitution and method of operation of the public service staff relations board. They provide for the establishment of a tripartite body to be known as the public service staff relations board. The board would consist of a chairman, a vice-chairman and a

maximum of eight members, four representative of the interests of the employees and four representative of the interests of the employers.

The primary functions of the board would relate to the determination of appropriate bargaining units and the certification of bargaining agents; the revocation of certification of bargaining agents in prescribed circumstances; and the hearing and investigation of complaints alleging violation of the provisions in the statute relating to basic rights and prohibitions. These latter clauses have already been dealt with.

Mr. WALKER: May I ask a question? The minimum board will be six and the maximum ten; is that correct?

Mr. LOVE: That is right, sir.

The functions I have already mentioned are common to most labour relations boards. The board would also have responsibility for the provision of administrative support to other independent third parties, namely, the public service arbitration tribunal, conciliators and conciliation boards and adjudicators. In discharging its responsibilities, the Board would have powers comparable to those of labour relations boards in other jurisdictions, including the power to make regulations.

Those are my opening remarks, Mr. Chairman, on the block.

Mr. BELL (*Carleton*): Why is a standard number not set rather than this business of not less than four and not more than eight? It seems to me that this gives some possibility of being able to vary the number to suit the employer. They may be able, when a problem arises, to deliberately appoint a new employee representative—I do not want to say as a “stool pigeon”—to help settle a problem in the favour of the employer.

Mr. LOVE: Mr. Chairman, I can only say that I do not think that is the intent. There are a number of precedents in other labour relations statutes for the kind of flexibility that is provided in this section. I think the purpose of the flexibility is to provide some means of varying the size of the board in relation to the workload.

In Ontario, for example, the statute provides for a chairman, a vice-chairman, one or more deputy vice-chairmen, and as many members as the lieutenant governor in council deems proper, representative in equal numbers of the two sides. I think that in Ontario, just to use that example, the size of the board has been increased so that divisions of the board might be created to deal with an increasing workload.

Mr. BELL (*Carleton*): The problem might be obviated if there were any requirement for consultation with employee organizations. This, I think, was raised by a number of the briefs before us. One I remember particularly was the Professional Institute brief which suggested that there ought to be prior consultation before the appointments were made. What view do you take of those representations?

Mr. LOVE: Mr. Chairman, I can only say that this would seem at this point in time to be a rather academic question because, as I understand it, consultations with the major employee organizations are already under way concerning the composition of the board and appointments to the board, on the assumption that

the governor in council should be in a position, as soon as possible after the coming into force of the act, to make the necessary appointments.

Mr. WALKER: Mr. Chairman, does not clause 11 (4) cover the point you raised? It says no member shall be appointed as being a representative of either of those interests without another member being appointed at the same time, representing the other interests.

Mr. BELL (*Carleton*): No, I do not think that covers the stacking.

Mr. WALKER: You were wondering about the stacking of—

Mr. BELL (*Carleton*): That does not cover my first point. My first point is concern that where, in a particular situation, the employer might decide to stack the board by appointing a weak employee representative as well as an employer and in these circumstances you could get into some genuine difficulty, it seems to me.

Mr. LOVE: I think, Mr. Chairman, that one of the problems of writing into the statute a requirement for consultation arises from the fact that, at this point in time, we have no certified bargaining agents in the public service and we have a large number of organizations that have members in the public service; there is really no formal way of determining their representative character; and if there were a requirement in the law for consultation it might be rather difficult to determine the organizations with whom consultation should take place. I think that in the situation where we have had no formal certification processes available to us, a requirement for consultation in the law would be a difficult one to cope with.

I can only say that the clear intention from the outset has been that there should be informal consultation. And, indeed, as I have mentioned, it is my understanding that the consultative process began some weeks ago and that there have been meetings with the major employee organizations concerned.

Mr. BELL (*Carleton*): Be careful on that. Some of us might take umbrage at the assumptions that are being made about parliamentary action.

Mr. LOVE: Well, I suppose that is always a possibility; but, on the other hand—

Mr. LEWIS: All right; you should be prepared. I do not think that Mr. Bell really means it. Do not worry.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 11 carry?

Mr. LEWIS: I do not understand subclause (4). Obviously, Mr. Walker does, but I do not.

Mr. WALKER: They will always be equal. In other words, as I read this, you will never have a board made up of an odd number. It will be six, eight, ten, or twelve.

Mr. LOVE: The intention certainly is to ensure that the membership of the board shall always consist of equal numbers from both sides.

Mr. LEWIS: I think that is fair.

Before we leave this I have no objection to clause 11 as it is but have you, Mr. Love, given thought to a provision, similar to the Ontario Labour

Relations Act, which would enable the board to act in panels, or is that there somewhere?

Mr. LOVE: Yes, sir, there is provision for it in the bill, clause 16 (2).

The JOINT CHAIRMAN (*Mr. Richard*): We will be coming to that.

Clause agreed to.

On clause 12—*Vice-Chairman*

Mr. LEWIS: What happens if both of them are away?

Mr. WALKER: Perhaps we had better get a couple of new ones.

Mr. KNOWLES: Before we leave clause 12, I have a very simple kind of question. Is there any provision here about voting on the board?

Mr. LOVE: Clause 16(3), Mr. Knowles.

Mr. KNOWLES: Thank you; that is what I was looking for.

Clause agreed to.

On clause 13—*Qualifications*

(*Translation*)

Mr. ÉMARD: Mr. Chairman, "A person is not eligible to hold office as a member of the Board, if," as in 13 (1) (c), "he is a member of, or holds an office or employment under an employee organization, that is a bargaining agent." Let us say that the Alliance affiliates to the Canadian Labour Congress. Could a member of the CLC be appointed to the Board in view of the fact that the second part says, "holds an office which comes under an employee organization."

(*English*)

Dr. DAVIDSON: Yes, Mr. Chairman. Perhaps Mr. Roddick could deal with that question. It has to do with whether or not a member of the Canadian Labour Congress, for example, could be a member of this body.

Mr. RODDICK: Mr. Chairman, as I understand it, the prohibition on membership here would relate only to those employee organizations that held a certification in their own name. The larger bodies, such as the C.L.C., to which they might be affiliated, would be in no way denied membership as a consequence of these clauses. That is, a person who was a member of or employee of the C.L.C. would not be debarred by these clauses.

Mr. LEWIS: The bargaining agent; but in both (b) and (c), Mr. Chairman, what you have in mind is that if you appoint someone who holds office or employment under the employer, or who is a member of a bargaining agent, or holds office, he would resign that job; but what I am concerned about is whether this means that you exclude all those people from the beginning, or whether what you are saying is that, once appointed to this job, he must quit the other job.

Mr. LOVE: It is a condition of appointment, I would think, as the bill is now drafted.

Mr. LEWIS: The controlling words are "is not eligible to hold office".

Mr. LOVE: That is right.

Mr. LEWIS: You are not saying that he is not eligible for appointment, but that he is not eligible to hold office.

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 13?

Is clause 13 carried?

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I think that the translation of clause 13, in French says: "A person cannot be appointed as a member of the Board."

There is a difference between the English and French texts insofar as the word "nommé" is concerned.

(*English*)

Dr. DAVIDSON: We will bring this to the attention of the translation authorities and see that the two are made consistent. It is not the intention to prescribe that a person who is a member of an employee organization cannot be appointed. It is the intention to prescribe that if he is appointed he must sever his connection with the employee organization concerned.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): The word "nommé" could have been removed completely, but we will leave that to the translation service.

(*English*)

Mr. KNOWLES: In the same way that he could be appointed if he were 69 years of age, but at 70 he would have to quit.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 13 is carried subject to the change in the French text.

On clause 14—*Remuneration of Chairman and Vice-Chairman*

Mr. KNOWLES: There is no collective bargaining for them, is there?

Clause agreed to.

On clause 15—*Head office*

Clause agreed to.

On clause 16—*Meetings for conduct of business*

Mr. KNOWLES: It is clear in the voting that if everybody is present, the vice-chairman has a vote. Does the chairman have a vote as well, on the first round?

Mr. LOVE: I think the intention is, sir, that either the chairman or the vice-chairman would be present at any meeting of the board, or at any meeting of a panel thereof, or division thereof, so that for purposes of any hearing, or decision, the board or the division would consist of a chairman, or the vice-chairman and equal numbers of representatives from the two sides.

Mr. KNOWLES: I am not quarrelling with any arrangement that may be envisaged, but I think that it should be clear—this is the kind of thing that we frequently run into in committees and various bodies—whether the chairman has a vote in the first instance, does he have only a casting vote, or does he have both? I mean, these rules all obtain. I would read from this that if everyone is present—the chairman, and the vice-chairman and equal numbers from the other sides—they all have votes.

Mr. LEWIS: He is first. The way this is set up, Mr. Chairman, I suggest to my colleague that his first vote may in fact be the casting vote if there is a difference between the two sides.

Mr. LOVE: The way it is set up, sir, I think the chairman is a member of the board and would therefore have a vote.

Mr. KNOWLES: All right, then, let us suppose this. It may be a ridiculous situation, but suppose the chairman and the vice-chairman vote differently.

Mr. RODDICK: Mr. Chairman, I direct the attention of Mr. Knowles to clause 16. I think it is quite clear that at any meeting of the board there can only be the chairman or the vice-chairman in the chair. At least, this would be my interpretation of the clause.

Mr. KNOWLES: With respect, I do not think that the fact that the chairman is present denies the vice-chairman the right to be there. It says "at least...the Chairman or the Vice-Chairman."

Mr. LOVE: I think there is a good point here.

Mr. KNOWLES: It is just that I think it should be clear. I can see the possibility of a tie vote and nothing in the act to say how that tie vote is to be resolved.

Mr. LOVE: Well, I think, in view of what has been said, that there is a possibility of interpretation that would be contrary to the intent, which is that at any meeting there should be either the chairman or the vice-chairman—

Mr. KNOWLES: But not both.

Mr. LOVE:—but not both. If the Committee agrees we would be happy to take this up with the draftsmen.

Mr. LEWIS: In other words, there would only be an odd number on the board.

Mr. LOVE: Yes, that is the intent; That is right.

Mr. KNOWLES: And not loaded with two, both at the table.

Mr. LOVE: That is right.

Mr. WALKER: Before we carry on, by your last remarks are you suggesting that there should never be a meeting with the chairman and vice-chairman?

Mr. KNOWLES: With respect, I am not suggesting one thing or the other. I just want to be clear what is in mind. Mr. Love says that he thinks the intention is that they shall not both be present at the same time.

Mr. LEWIS: I would hope so.

Mr. LOVE: That is right. As I understand the intent, it is that there should be an odd number at all meetings, and that would mean that both the chairman and the vice-chairman would not be in a position to vote in any particular decision.

Mr. KNOWLES: It seems to me that makes sense, but that it should be made clear in this clause. It seems to me that you should not bar the vice-chairman from being present at the meeting, particularly if he might have to take over when the Chairman leaves, but that you should provide that only one of them votes. That is what you intended?

Mr. LOVE: That is right. It is in relation to the voting I think that this thing should be dealt with.

Mr. KNOWLES: Yes.

Mr. BELL (*Carleton*): The Professional Institute raised a point in connection with this and at the time I did not quite understand what it was, but I think I do now.

They suggested that there ought to be a provision that there always be an equal number of representatives of the two sides, but I am not sure that this language says that. I thought it did, but I am not sure now, as I look at it, that it does. Under 2(b) it says "at least two other members to be designated by the Chairman," so that the chairman could designate three, and there would be two employer representatives and one employee representative and that would, in such a circumstance, it seems to me, comply with the draftsmanship of 2(b). I am quite satisfied that is not the intention, but I think it is possible to do that under the language.

Mr. LOVE: Yes, I think, Mr. Chairman, that we have to be careful that we do not put into the bill provisions that would hamstring the board for certain purposes.

As I understand it, the point that Mr. Bell is raising is handled almost universally by means of informal practices in labour relations boards across the country; that a board for purposes of a hearing may proceed even though there is some imbalance in the numbers from the two sides; but, when it comes to the point of decision, one member will stand down from the side that has the extra member. The intent certainly is that—

Mr. LEWIS: It leads to court cases, Mr. Love.

Mr. LOVE: You mean where there is an imbalance in—

Mr. LEWIS: Almost every kind that I have been involved in, and I have been involved in many where there is an imbalance at the time of the hearing you get into some difficulty. Mind you, I have sympathy with what you say because you might easily have a couple of people ill, and you simply cannot get the balance, and then you are in some practical difficulty; but I am not so sure that that difficulty is not more desirable than the other one.

Mr. LOVE: Yes. I must say that the points that have been made are ones with which we have a good deal of sympathy, and since, in any event, we are going to ask the draftsmen to examine the voting provisions, it might be wise to ask them to look at the whole section in order to see if we cannot use words that would be more in line with the intent.

Clause 17 stands.

On clause 17—*Supervision of work and staff*

Mr. LOVE: I should draw the attention of members, Mr. Chairman, to the reference in subclause (2) to the Civil Service Act. That will call for a change at the time when we have a firm title for Bill No. C-181.

Mr. BELL (*Carleton*): What is the purpose in subclause (3) of saying "The Chairman on behalf of the Board may appoint, and fix—" ? Is there some significance in the manner of expression? Personally, it would seem to me that it ought to be the board that does it, but if it is not the board, just the chairman. Is

there some difference between saying "the chairman" and "the chairman on behalf of the Board"?

Mr. LEWIS: The hiring agent is the board, too, Mr. Bell.

Mr. LOVE: Well, Mr. Chairman, this goes back to a rather basic problem which our draftsmen and those of us who were working on the legislation faced, in that under normal labour relations statutes certainly the appointment of conciliators is the responsibility of the Minister of Labour. In this legislation, for reasons that are fairly obvious, it was not considered appropriate that a minister of the Crown should be involved. Therefore, the responsibility has been placed on the chairman.

I am not personally too clear on the significance of the phrase "on behalf of the Board", except that I am assuming that the Chairman would act on the basis of general rules or procedure that had perhaps been discussed in the board and established by the board.

Mr. LEWIS: Is it likely that what you had in mind was that his appointment should be subject to approval by the board, and if that was your intention why do you not say so?

Mr. LOVE: I do not think that was the intention, Mr. Chairman. I think the problem here is that a request for conciliation is a request that very frequently has to be acted upon very quickly, and this is why, I think, the responsibility for appointment is normally vested in the minister, in a single individual; and the same considerations would apply in the administration of this statute.

Mr. KNOWLES: Why do you not just say "the Chairman"? It seems to me that this phrase "on behalf of the board" makes it possible for the board to meet some day and say, "We do not like the appointment you made: You did not make that on our behalf", but he comes back and says, "I have statutory authority to make it on your behalf whether you like it or not." Would it not be better just to say "the Chairman"?

Mr. LOVE: I think that, having had a brief discussion at the table, we are inclined to agree with this point. It seems to us that the words "on behalf of the board" are in some ways inconsistent with the provisions of Clause 53 which says, in effect, that the chairman may appoint a conciliator.

Mr. KNOWLES: I move the deletion.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, seconded by Mr. Orange, moves that subclause (3) of clause 17 be amended by deleting the words "on behalf of the Board" in line 5.

Some hon. MEMBERS: Agreed.

Motion agreed to.

Mr. LEWIS: Mr. Chairman, we have concentrated on conciliator but what of the authorities to appoint other persons as well. I am not saying that that changes the validity of the amendment moved by Mr. Knowles, but what other persons have you in mind, just for the purpose of understanding this? It is not only the appointment of conciliators; it is "—other experts or persons having technical or special knowledge to assist the board in an advisory capacity"—all these rather expert staffs that the board might need.

Mr. LOVE: That is right; and really the chairman, I think, in this context might be regarded as the chief executive officer for administrative purposes.

Mr. LEWIS: I was going to say that it follows from subsection (1) that he would do it.

Mr. LOVE: That is right.

Mr. WALKER: Is there anything in the Financial Administration Act that makes it necessary to put in the words "on behalf of the board". Is there some area in there—

Mr. LOVE: None of my colleagues seems to be able to think of any reason why these words need be in.

Mr. LEWIS: The distinction you make between subclause (2) and subclause (3), if I understand the words of the clause, is that there will be certain employees of the board who will be hired through the public service employment process.

Mr. LOVE: That is right.

Mr. LEWIS: They would be secretaries, registrars, permanent research people and all the rest; but that under subclause (3) you want to give the board or the chairman the authority to appoint, as it were, ad hoc employees.

Mr. LOVE: That is right.

Mr. LEWIS: Special advisory people from time to time.

Mr. LOVE: In a consulting capacity, for particular problems.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 17 as amended carry subject to the reservation mentioned by Mr. Love in reference to subclause (2)?

Clause 17, as amended, agreed to.

Clause 18 agreed to.

On clause 19—*Authority of board to make regulations*

Mr. CHATTERTON: Is it normal that such regulations are required?

Mr. LOVE: There is a provision in subclause (2) which certainly implies that they would be required.

Mr. BELL (*Carleton*): I do not understand the expression "regulations of general application". What is the difference between "regulations of general application" and "regulations"?

Mr. LOVE: The only explanation I could give to the Committee is that it is anticipated that the board, in establishing regulations under the subheads, would be establishing regulations that were of a general character applying to all bargaining units, or all bargaining agents. It is not assumed here that it will be necessary for the board to make regulations applying in a specific and special sense to particular groups of employees, or to particular groups of bargaining agents.

Mr. CHATTERTON: Where is there any indication that these regulations have to be published in the *Canada Gazette*?

Mr. LOVE: On page 11.

Mr. KNOWLES: Having said that you can only make regulations of general application, why do you have to repeat it again in subclause (2) that regulations of general application. It is almost felt that perhaps you have some others tucked away somewhere.

Mr. LOVE: I think that is a good point.

Mr. BELL (*Carleton*): Is not the situation here that there is a regulatory power in clause 18 and any regulation made pursuant to clause 18 need not be published in the *Canada Gazette*, whereas regulations made pursuant to clause 19 shall be so published?

Mr. LOVE: I think we had better ask the legal officers for a more specific opinion on the significance of the phrase "of general application". I think the last point made is a good one, and I would suggest that we should have a clearer indication of whether or not clause 19 reflects all of the regulation-making powers of the board. It has been my assumption that this is the case.

Dr. DAVIDSON: Mr. Chairman, could I just ask Mr. Bell if he reads clause 18 as conferring authority on the board to make regulations? It refers to the making of orders "requiring compliance with the provisions of this act, with any regulation made hereunder—"

Mr. LEWIS: Or a decision.

Dr. DAVIDSON: It does not confer, as I read it, power to make regulations, but it does confer power on the board to make orders that require compliance either with the act itself, or with any regulations made within it.

Mr. BELL (*Carleton*): I interpreted the "hereunder" as referring to clause 18 and not to the act, and the expression "with any regulation made hereunder" as being referable solely to clause 18.

Dr. DAVIDSON: I interpret it in the other way, but it is clearly open to both interpretations.

Mr. CHATTERTON: And any regulation made under section 19—would not that be specific?

Mr. BELL (*Carleton*): I think the draftsman deliberately intended that, otherwise he would not have put in the phrase "regulations of general application". He would have said "may make regulations."

Mr. LOVE: We had better look into this.

Mr. WALKER: We are back to section 18, are we?

The JOINT CHAIRMAN (*Mr. Richard*): We are now on section 19, are we not?

Mr. WALKER: I want to clear up a point. Mr. Love, did you say you wanted to look at something in relation to section 18?

Mr. LOVE: Yes, I think—

Mr. WALKER: We have already carried it, and I just want to keep the record straight.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 18 carry?

Mr. KNOWLES: No; it stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 18 stands. We will continue on clause 19.

(Translation)

Mr. ÉMARD: Mister Chairman, I hope that if we accept sub-sections (b) and (c) of clause 19, this won't prevent me from putting forward certain suggestions and perhaps some amendments relative to certification, which are related indirectly, when we come to clause 26 and the following clauses.

(English)

Mr. LOVE: Mr. Chairman, I doubt that there would be anything restrictive in a decision of the Committee to carry clause 19, subparagraphs (b) and (c) in view of the fact that I am assuming there is going to have to be a process for the determination of units and the certification of agents.

Mr. LEWIS: Whatever clause 26 provides, the board would be able to make regulations on.

Mr. LOVE: That is right.

Mr. LEWIS: Mr. Chairman, I want to put a caveat on (d). I very strongly object to the later provision that matters of law or jurisdiction be referred back to the board.

Mr. LOVE: I may say that we will have some observations on that ourselves. Once again, I do not think that the substance of the section in question should hold the Committee up in dealing with the regulation-making power.

Mr. BELL (*Carleton*): I would like to register my firm objection to subparagraph (1). I take the same exception wherever this type of general language appears in any statute. I think this just opens wide the regulatory power, I know it appears in other acts but I object firmly and vigorously to it.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 19 carry? Before it carries I should acquaint the Committee with a letter which I received from the Association of Postal Officials of Canada in which they want to bring to the attention of the Committee their particular situation in relation to subsection (1) of clause 19, paragraph (b). I suppose this letter could be made part of the proceedings. If the Committee wants me to read the pertinent paragraph. I will do so now.

Mr. WALKER: Mr. Chairman, I do not mind that, but does this open it up to other letters or briefs to come in again on specific clauses as we are dealing with them? Would it be possible, in order not to derail ourselves and open up again the presentation of briefs, for some member who agrees with whatever is in that proposal to put it forward on their behalf.

The JOINT CHAIRMAN (*Mr. Richard*): Maybe the situation in this case, as I suppose Mr. Walker says, is that this group apparently—the postal officials—were formed on October 16, because, as they say:

“Having been rejected by other associations of the Post Office Department and, in addition, with the introduction of Bill C-170, it was realized that in order to have a voice in our future, we would have no other alternative but to form our own association. At the general requests of postal officials across the country, a national body was formed on October 16, 1966, at which date 1,100 officials, representing close to 50 per cent, were members.

In Part I, under section 19, subsection (i) of paragraph (B), this clause grants the commission the power to determine rules for the composition of the groups of employees able to negotiate,” et cetera.

Mr. WALKER: Mr. Chairman, on a point of order, if the Committee agrees—you are now in the process of reading what I suggested was a brief—

The JOINT CHAIRMAN (*Mr. Richard*): I was reading why this brief was presented late.

Mr. WALKER: Yes, up to a certain point, but now you are getting into their suggestions. All I want to place before the Committee, is the desirability or the undesirability of opening up, at this stage, suggestions which come in from new associations or old associations. If the Committee desires to do this, I think this is fine, but I think that decision should be made. If they decide it is not advisable for the Committee to receive briefs, then there are other ways of doing it, namely through a member of this Committee.

Mr. KNOWLES: Mr. Chairman Bourget, may I suggest that Mr. Richard is a member of this Committee and he could address you and say a few things.

The JOINT CHAIRMAN (*Mr. Richard*): I will go further. I think it was agreed before that when we reach a particular section, if representations were to be made on the particular section under discussion they could be made. There will be some more, so I think probably we will want to hear everything.

Mr. CHATTERTON: Quite often the employees do not have the understanding which they should have, and they get it later.

Mr. BELL (*Carleton*): We want the best possible bill and I think we should have any advice we can get from any quarter right up to the moment we report it back to the house.

Mr. WALKER: Mr. Chairman, let me make my position very clear. I am in agreement with this as long as the Committee understands has it is open to anybody else who wants to do it.

The JOINT CHAIRMAN (*Mr. Richard*): On a particular section.

Mr. WALKER: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): That is so; we said that before. I stopped there. Shall I keep on reading the rest of the paragraph or do you want it as part of our proceedings for today?

Mr. LEWIS: Who are these people?

The JOINT CHAIRMAN (*Mr. Richard*): The Association of Postal Officials of Canada.

Mr. LEWIS: What do they mean by officials?

The JOINT CHAIRMAN (*Mr. Richard*): I read:

Under this section, our membership comprising supervisory personnel, postal, i.e., postal officers 1 to postal officers 7, would form part of an operational group with the postal workers, letter carriers and railway mail clerks. It is evident that the Canadian Union of Postal Workers and the Union of Letter Carriers, having the largest membership, would control the whole group and thus be in a position to control the future of a group of supervisors, who would have no voice or vote whatsoever in these proceedings. This would leave us in a position whereby supervisors would have their hands tied and would no longer be included in the management side.

I am simply reading this because I am not the advocate of any case but because it was brought to my attention as Chairman.

Mr. LEWIS: Could we explain to them that that hardly affects (b) of clause 19(1). What they are really dealing with is the definition of managerial people under clause 2, but 19(1) (b) merely gives the board the power it must have to determine an appropriate bargaining unit and the bargaining agent representing

that bargaining unit. That has nothing to do with the definition of managerial people.

The JOINT CHAIRMAN (*Mr. Richard*): Does the Committee agree that we should allow this letter to form part of the proceedings? It was addressed to the Chairman.

Some hon. MEMBERS: Agreed.

Mr. BELL (*Carleton*): On clause 19, Mr. Chairman, the Professional Institute raised a question whether there ought to be a requirement for consultation with the staff associations before the regulations are promulgated. I do not have any very firm views myself on this but I think it should have some consideration. I see that the Civil Service Association suggested that there ought to be some form of appeal in relation to the regulations. I cannot find that brief at the moment.

Mr. LOVE: Mr. Chairman, on the first point, I think we would be faced with the same problem that would face us had we placed on the Governor in Council a requirement in law to consult with employee organizations prior to making appointments. The problem is, with whom would the board be required to consult prior to making regulations? There is nothing in the provision that would prevent the board from consulting with or seeking advice from such organizations as it wished to consult, but a statutory requirement would, I think, place the board in a very difficult position in a situation in which we have no legally recognized organizations. I think the same argument that was mentioned earlier would apply in this case.

Mr. BELL (*Carleton*): I would hope that the board would have the wisdom to consult with certain obvious organizations.

Mr. LOVE: On the second point raised by Mr. Bell, that is the possibility of having an appeal from the board to another body, apart from the fact that this would have no precedent, to my knowledge, in labour relations law, it is my understanding that as a result of the merger of the C.S.A.C. and the federation into the new Public Service Alliance, the C.S.A.C. is, and I quote from the supplementary brief submitted to the Committee:

The C.A.S.C. is now prepared to withdraw this view in favour of that of the P.S.A.C. which believes that the P.S.S.R.B. should be the final authority in the making of regulations governing its powers and duties.

So, I think we can assume that that particular representation has been withdrawn.

Mr. LEWIS: I have an objection to (k) which is one, I think, of substance. It provides that the board may make regulations respecting the establishment of terms and conditions relating to the certification of a council of employee organizations. I do not object to that but I have an almost instinctive objection to giving the board the right to establish the relationship of the constituent employee organizations to each other, to the employees therein and to the employer. Why should the board have that power? Why can the organizations forming the council not have the right to establish their own relationship?

Mr. LOVE: Mr. Chairman, I might say that we have reviewed the wording of this subsection in the light of the representations made to the Committee and we would agree that some change in the wording would make good sense. Really, the intent here, from the outset, was to try to reflect in (k) the type of

responsibility that is placed on the board in the case of an application for certification from a council. The clause in question is 28(2) (b). What we are now exploring with the draftsmen is the possibility of tying this wording into the requirement on the board to look into the legal and administrative arrangements whereby the council has been created in order to ensure that the council is, in fact, a viable organization for purposes of collective bargaining. The intent here would be to modify the wording of (k) in such a way as to tie it back into the provisions of clause 28(2) (b).

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 19 carry?

(*Translation*)

Mr. ÉMARD: Mr. Chairman—

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Under 19 (f), could you tell us what type of regulations the Board intends to apply relative to rights, privileges and duties acquired or retained by an Employee Organization where there is a merger amalgamation or transfer of jurisdiction?

(*English*)

Mr. LOVE: Mr. Chairman, I think this is a problem faced by all labour relations boards and, as I understand it, the wording used here is a fairly standard reflection of the normal powers of a board when two organizations—and this is just an illustration—that have been certified, and become parties to collective agreements, merge. Then there is the problem relating to the disposition of the rights under the law of the proceedings organizations as I understand it, (f) is a fairly standard provision that would enable the board to cope with the difficulties that result from a merger or amalgamation or a transfer of jurisdiction.

Mr. LEWIS: The language in (f) is too wide. I think I can see why Mr. Émard is concerned about it. I read it as meaning the rights, privileges and duties under this act. The way it is now worded, you would think that you would be concerned with their absence and their funds and rights which are beyond collective bargaining.

(*Translation*)

Mr. ÉMARD: That is exactly what I thought.

(*English*)

Mr. LEWIS: I think you ought to say the rights, privileges and duties and refer to this act rather than anything beyond this act.

Mr. LOVE: Really relating to a bargaining unit?

Mr. LEWIS: That is right.

Mr. LOVE: Under this act. I think this is a good suggestion. It certainly would be clearly in accord with the intent. We would be happy to consult the draftsman on that point.

Mr. LEWIS: That is both (f) and (k) which you will look into?

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 19 stand as to subsections (f) and (k)?

Shall clause 19 carry subject to subclause (f) and (k) standing?

Mr. LEWIS: It is conducive to the object.

Mr. WALKER: Did you clear up the point in clause 1, the words "general application"?

Mr. KNOWLES: They are going to look at that.

Mr. LOVE: It is still to be looked at.

The JOINT CHAIRMAN (*Mr. Richard*): Let us just stand clause 19.

Clause 19 stands.

Clause 20.

Mr. KNOWLES: We carried that clause before, Mr. Chairman.

Mr. LOVE: Yes I am sorry. Clause 21.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 21 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 22.

Clause 22—*Powers of board re certification and complaints*

Mr. BELL (*Carleton*): What is the significance of the phrase in subsection (c) "whether admissible in a court of law or not"? What is contemplated hereunder? How far does the abandonment of the rules of evidence go?

Mr. LEWIS: I hope far; I hope very far.

Mr. LOVE: I think, Mr. Chairman, this is based on the view that a board of this kind, although quasi-judicial in some ways, is not a court of law and that, where you are dealing with problems of industrial relations, it is sometimes important for the board to have power to examine matters that might not be admissible in a court of law.

Mr. LEWIS: But here you say, and the requirement that document must be proven in a certain way and all the rest of the rigmarole that the courts go in for.

Mr. BELL (*Carleton*): This is, of course, wide open, though.

Mr. LEWIS: I think it is meant to be and should be.

Mr. BELL (*Carleton*): Is there a similar clause in any other legislation?

Mr. LEWIS: In all labour relations acts, Mr. Bell, including the I.R.D.I.A.

Mr. BELL (*Carleton*): I am looking for it there. Perhaps Mr. Lewis could point it out to me.

Mr. LEWIS: If I can lay my hands on the act.

Mr. RODDICK: I think, Mr. Chairman it is section 58(6) of the I.R.D.I. Act which reads:

The Board may receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it may deem fit and proper whether admissible as evidence in a court of law or not.

This is the appropriate reference.

Mr. LEWIS: And it is in every other act, I assume.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 22 carry?

(Translation)

Mr. ÉMARD: Mr. Chairman, under Article 22, Paragraph F, "to enter upon the employer's premises for the purpose of conducting representation votes

during working hours". Is there any clause which authorizes high officials or officers of the organization to go on to the premises of the employer or the government, to hold an inquiry. In Bill C-170, do the representatives of associations, the officers, have the right to penetrate onto the premises of the government, to enter in order to settle a grievance, to make an inquiry?

(English)

Dr. DAVIDSON: The answer to that, Mr. Chairman, is, no. There is no provision that would authorize a representative of the association to enter the premises of the employer under the same circumstances as are here indicated.

Mr. LEWIS: Are you going to have a representation vote without representatives of the employee organization present, as scrutineers?

Mr. RODDICK: Mr. Chairman, I think in respect to Mr. Lewis' point, in so far as there are scrutineers in the taking of a representation vote, they are, in some degree, acting as agents of the board.

Mr. LEWIS: That is what I thought it meant.

Mr. RODDICK: The Board would have full authority to have them penetrate the walls of the employer.

(Translation)

Mr. ÉMARD: What I wanted to know was, in the case of certain grievances which have not reached the arbitration stage and in which representatives, head officers of the association, for instance, want to inquire as to the value of certain grievances, perhaps before bringing them to arbitration. In this case, in industry, the representatives of different unions have a right to enter the premises to verify whether what is contained in the grievance is in accordance with the facts to be presented or to conduct inquiries to determine whatever methods are to be used.

I saw nowhere in this bill where representatives of the Association—I am not speaking of representatives of the department, but representatives of the head-office who are specialized in grievance procedure—will these representatives have a right to enter the premises of the government?

(English)

Mr. LOVE: Mr. Chairman, I can only say that that problem is certainly not dealt with in the clause under consideration at the moment, and it may be that it would be appropriate to leave that question until we arrive at the clauses of the bill that relate to grievance procedures. I think the intent of this clause is simply to set forth the powers of the board. The appropriate time, I think, to deal with the other question is when we are considering the grievance procedure clauses.

Mr. CHATTERTON: The last sentence in paragraph (c) reads:

The Board may refuse to accept any evidence that is not presented in the form and as of the time prescribed.

Does that mean within the time prescribed by the Board?

Mr. LOVE: I think that is right, sir.

Mr. LEWIS: In clause 19 they are given the power to prescribe the time within which evidence of membership or objections to a bargaining agent may be placed before it, and I suppose this is what we are dealing with here.

Mr. LOVE: That is right.

The JOINT CHAIRMAN (Mr. Richard): Does clause 22 carry?

Clause agreed to.

The JOINT CHAIRMAN (Mr. Richard): We will proceed with clause 23.

On clause 23—*Questions of law or jurisdiction to be referred to Board*

Mr. BELL (Carleton): Mr. Chairman, there were a lot of objections to this clause principally, I think, from the Canadian Labour Congress.

Mr. LEWIS: Are you dealing with clause 23?

Mr. BELL (Carleton): Yes, clause 23. I think the Canadian Labour Congress advocated its total deletion.

Mr. LEWIS: But I raised it on second reading, if I remember correctly, as well. I think you are borrowing a great deal of unnecessary delay and trouble by divesting the arbitration tribunal of the right to deal with the matter. That is the basic reason, I think, for the objection.

Mr. LOVE: Mr. Chairman, the objections which have been stated to clause 23 have been carefully considered, and it is now the view that at an appropriate time, a change in clause 23 should, be proposed that would really reverse the effect of the clause.

Mr. LEWIS: You really have to take the labour section in conjunction with this. I forget what the clause is, but there is one that says if a question of law or jurisdiction arises in the course of an arbitration or an adjudication that power is left to the Board.

Mr. LOVE: That is right, but just to continue with clause 23, it would now be our view that the effect of the clause should be reversed, and that it should provide that the proceeding should continue, unless the tribunal or adjudicator or the board decides otherwise. In other words, a case before an adjudicator would proceed even though a question of law or jurisdiction had been raised, unless the adjudicator felt that it was of a character that really required resolution before the proceedings could continue effectively.

Mr. LEWIS: Mr. Chairman, with great respect, I would like to urge that you go a step further. I think the adjudicator or the board of arbitration should have the power to deal with the question of law or jurisdiction as well as any other matter, and that what you are seeking—if I guess correctly the implication of this clause—is some uniformity in the jurisdiction of bargaining agents and all other matters that may affect jurisdiction or the interpretation of the act. I think you can get that by providing for an appeal on a point of law or jurisdiction from the adjudicator or board of arbitration to this board, but I do not think you should give the power to anybody to stop the process of adjudication or arbitration—even the arbitrator himself—and go somewhere else for a judgment. Let him make up his mind. It seems to me that any legal process is a great deal more efficient if you let the court, whatever it may be—whether it be inferior or superior—deal with these questions, particularly in labour relations.

Then, if either the employer or employee organization feels that the decision on the point of law or jurisdiction is unwise, it can take it on as an appeal on law or jurisdiction to the board.

Mr. LOVE: I think, Mr. Chairman, that we would be somewhat concerned about the effect of providing an adjudicator with the authority to deal with

questions of law or jurisdiction. We are assuming that, at least in the early years of the bargaining relationship, there is likely to be a good deal of adjudication, and we would be concerned about the inconsistencies that might arise if the authority were to be placed in the hands of the adjudicator. We would also be, I think, somewhat concerned about the concept of an appeal from the award of an adjudicator, because the intent in this bill is to shore up the authority of the adjudicator and to create the clear impression that, in normal circumstances, a decision of the adjudicator is final and binding on the parties.

I recognize that it could be handled by means of an appeal mechanism, but I think we would be somewhat concerned about the possible effects of an appeal mechanism on the quality of the adjudication process.

Mr. LEWIS: You may be right, Mr. Love, but instead of dealing with abstractions, let us try to think of one or two instances where your question of law or jurisdiction arises. I would guess that a very likely field of controversy would be whether or not a certain matter is arbitrable or adjudicable; whether or not that particular point raised in a grievance is excluded from the collective bargaining process. That is one field where you might have it. In fact, I cannot see another one where the law or jurisdiction would come in. There might be others. I do not know whether you have thought of any.

It has been found in labour relations that the question whether a matter is arbitrable ought in the first instance to be left to the arbitrator. You will find as you go through the history of labour relations acts, that in some of the acts at a later stage than when the act was first enacted, the power to decide whether or not a matter is arbitrable is given to the arbitration board; here you do not, and this is what I think is wrong.

Mr. HYMMEN: Mr. Chairman, we have transposed the words "shall" and "may" in previous clauses. I believe the professional institute mentioned or recommended that if the clause were made permissive rather than mandatory it might allow the adjudicator to solve the problem if he was able to do so. The professional institute recommends the word "may" instead of "shall".

Mr. LOVE: It would then read, "may refer the question".

Mr. RODDICK: Mr. Chairman, I would like to pursue Mr. Lewis's thought just a little further, not for argumentative purposes, but for the purpose of trying to fully understand the implication of the situation that we are developing. Mr. Lewis would contemplate a situation in which the parties before an arbitration tribunal, or an adjudicator, had flatly disagreed in respect of the question whether the matter, that was brought before the tribunal and the adjudicator, was in fact a proper matter within the jurisdiction of that arbitration tribunal or adjudicator. He then suggests that, notwithstanding these objections, the adjudicator should over-ride them and, if he wishes to do so, proceed to a full examination and a determination of the matter. I could not help but think that this might affect those processes—one of the parties being doubtful whether the process should go forward at all. Then, when we come to the final determination, the parties who objected, would, I think—under Mr. Lewis's example—still have in fact recourse to somebody, the board, or the courts, in respect of this matter of law. Am I proceeding correctly with your example.

Mr. LEWIS: Yes, I gave you one example. The other example that I should have thought of, which is even more relevant, I think is the adjudication. There

are two forms of arbitration, under the statute. Correct me if I am wrong. One is the arbitration of the negotiating issues, when you choose arbitration instead of the other road. The other is, what is called in the act, adjudication, which is normally called arbitration, which would be adjudication of a dispute over the meaning and application of the collective agreement. What I am concerned about, and I feel a little strongly about it, is that constantly there is argument whether the words of the collective agreement make a particular grievance arbitrable or adjudicative. I think that the adjudicator ought to be interpreting the agreement. He ought to have the authority to decide whether he has jurisdiction under the agreement.

Mr. RODDICK: Mr. Chairman, as I understand it in relation to the proposal put forward by Mr. Love, he would in fact have the prime responsibility to make such an interpretation. If he decided that the thing should go forward, it would go forward. The only recourse that the objecting party would have would be to go to the board at that point and try to get them to stop the proceedings. But if in fact the norms of practice are, as Mr. Lewis suggests, I would think that the board would be very reluctant to interfere at that point, unless the case was a fairly demonstrable one. If that is what Mr. Love intended.

Mr. LEWIS: I apologize for not understanding him. If the change you have in mind is to leave with the adjudicator or the arbitration board, the initial authority to decide whether or not a matter is arbitrable or adjudicative; and then give either of the parties the authority to stay the process while he takes this matter to the board, that may be different.

Dr. DAVIDSON: There is one exception, I think, if I follow Mr. Love correctly, and that is if the adjudicator himself, having heard the arguments as to jurisdiction or as to law, considers that he is not in a position to decide that issue himself, then he may refer the question to the Public Service Staff Relations Board and adjourn the case.

Mr. LEWIS: That would halt the process. Let us see the words that have come down.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 23 stands.

Clause 24 agreed to.

On clause 25—*Review or amendment of orders*

Mr. BELL (*Carleton*): This is more or less standard. Should there not be notice to affected parties?

Mr. RODDICK: Mr. Chairman, I would like to ask Mr. Bell whether he implied that the notice would oblige the board to provide for a hearing of some kind or another, before it in fact moved to rescind or reverse decision that had been taken.

Mr. BELL (*Carleton*): That is just what I was wondering. There should be prior notice to the parties affected, before an order would be rescinded or varied.

Mr. LEWIS: I think I would agree. What would be wrong with having a hearing with one of the parties afterward?

Mr. LOVE: Mr. Chairman, in clauses of this kind, I am aware of no precedent for this, but on the face of it, it would appear to be a reasonable proposition. We

would be happy to take a look at it. Just at first blush, I can see no strenuous objection to a proposal of that kind.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 25 stands.

We now come to Part II, collective bargaining and collective agreements.

On clause 26—*Specification of occupational categories and date of eligibility for collective bargaining*

Mr. LEWIS: What group or section—

Dr. DAVIDSON: That is by itself.

Mr. Chairman, in view of the importance of clause 26, we thought that we should devote a particular amount of attention to it and deal with it by itself even though there are implications for other sections of the bill arising out of the consideration of this section.

At the outset, I would like to say that we have a substantial rewriting of this section to propose to the members of the Committee. Therefore, it would not be too profitable, I think, in the circumstances, to direct our attention initially to the clause as it stands now. I would like, however, to put on the record a statement as to the considerations which have entered into our review of this clause, and the conclusions that we have come to as to changes that should be made. May I proceed, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Dr. DAVIDSON: Members of the Committee are, I am sure, aware of the provisions of this clause, as it now stands, which require that during this period of some 28 months—which the bill identifies as the initial certification period—bargaining units are to be consistent with occupational groups. The general intent of the section was, I believe, made quite clear during the period that Mr. Heeney was giving his evidence before the Committee.

Clause 26 was designed to provide, in the form in which it is now contained in the bill, for an orderly transition from the existing pay review cycle to the schedule of bargaining that will emerge as a result of decisions taken by the parties in collective bargaining, after the transitional period has passed. It was also designed to ensure that the parties to bargaining, during this transitional period, would be able to make use of information made available through the facilities of the Pay Research Bureau relating to rates of pay in the private sector and in other public service jurisdictions.

Another clause of the bill, clause 57, which relates to clause 26, was intended to establish a common termination date for all collective agreements applying to employees in a given category, so that regardless of the dates on which organizations were certified, or the dates on which they entered into their first collective agreement, both the employers and the bargaining agents representing employees in various groups in the category, would have an opportunity to co-ordinate their bargaining positions as they affected conditions of service common to employees throughout that particular category.

Because the classification revision program was far from completion at the time that Bill No. C-170 was drafted, it was considered necessary, at that point in time, to provide the Governor in Council with authority to specify and define the occupational groups that would provide the basis for bargaining units. That

is the provision that is contained in clause 26 as it is presently before the Committee.

At the time when Bill No. C-170 was drafted, it was considered necessary to provide the Governor in Council with authority to specify and define the occupational groups that would provide the basis for bargaining units. Although it was the clear intent from the outset that the groups to be specified and defined by the Governor in Council would correspond to those developed by the Bureau of Classification Revision under the aegis of the independent Civil Service Commission, there was considerable uncertainty as to the date on which the developmental work by the bureau relating to the groups in each category, could be completed. For this reason, there seemed, at the time we were engaged in drafting, to be no alternative to the inclusion of provisions in the bill that would result in a staggering or scheduling of the dates on which certification would become available for different categories. This would leave a considerable amount of discretion, as to dates, in the hands of the Governor in Council.

Mr. Chairman, I am referring to a period several months ago when this bill was originally drafted. With the passage of time, circumstances have changed and we are now satisfied that, by the time the legislation takes effect—and we are assuming that to be not later than January 1, 1967—the Bureau of Classification Revision will have completed its work on the definition of the occupational categories and groups. This fact, together with a careful examination of the criticisms submitted by different employee organizations, and the observations made by members of the Committee itself, has led us to conclude that certain changes in section 26 are both possible and desirable.

We have now come to the conclusion, in fact, that a complete revision of clause 26 is called for, and we would propose to the Committee that the clause be reconstituted in such a way as to accomplish the following objectives:

First to remove from the Governor in Council the authority to specify and define occupational categories and groups. That authority is presently given to the Governor in Council either by clause 26 as it presently stands, or by the definition of the occupational category as set out in clause 2(r) of the definition. We propose to remove from the Governor in Council the authority to specify and define both the occupational categories and the occupational groups. We propose to allocate to the Public Service Staff Relations Board the responsibility for identifying the additional categories, if any, other than those listed in the definition clause 2(r). We would propose to allocate to the Public Service Commission the initial responsibility for specifying and defining the occupational groups, in view of the fact that this responsibility has been carried up to the present time by the Bureau of Classification Revision.

Second, we would propose to remove from the Governor in Council the authority that is set out in the present bill to fix the date on which employee organizations would be permitted to apply for certification as bargaining agents in respect of employees in each category. We propose to assign the responsibility for this function to the Public Service Staff Relations Board, and to require the board to fix the dates in such a way that employees in all categories would have access to the certification process within 60 days of the coming into force of the act. This will give to the Public Service Staff Relations Board a modest amount of leeway within that 60 days for scheduling of priorities for the purpose of

dealing with certification of the various bargaining units. This is necessary because of the inevitable priority that has to be given to the certification first of all of bargaining agents in the operational category. Within 60 days the new proposal would provide that the Public Service Staff Relations Board must schedule dates in such a way that access to the certification process for all categories is available within 60 days of the coming into force of the act.

Third, we propose to remove from the Governor in Council the authority to fix dates governing the schedule of bargaining, and to set forth in a schedule to the bill itself, with respect to each category, the dates after which notice to bargain may be given and collective agreements may be entered into and on which the first agreements are to terminate.

We believe that these changes should be reassuring to both employee organizations and the members of the Committee because they would have the effect of removing all discretionary authority relating to the introduction of collective bargaining from the Governor in Council, who has, understandably in certain contexts, been identified with the position of the government as employer.

We believe also that the proposal to make the certification process available almost immediately to organizations representing employees in all categories should deal effectively with one of the principal criticisms of this clause. Finally, we believe that the proposal to insert a schedule of dates in the bill, while retaining the means of achieving an orderly transition to the bargaining relationship, should remove an element of uncertainty that has been a cause of concern to organizations of employees.

At this point I would like to direct the attention of Committee members to the visual presentation on the easel in the corner of this room. This chart sets forth the dates, derived in a general way from the existing pay review cycle, that we think should be considered for incorporation in the proposed schedule to the bill. I have a further statement to make, Mr. Chairman, on a related matter that is connected to clause 26, but it does not concern this portion of the problem. Therefore, I would suggest that I pause at this point, ask Mr. Love to elaborate on the details set out in this chart, and return to the further statement at a later stage.

MR. LOVE: Mr. Chairman, I think the best way of reading the chart is to read from top to bottom the currently scheduled pay review dates for the different categories, which derive from the cyclical pay review process that has been in effect since 1960. These dates have been set forth in the first line.

It is proposed that, in the case of all categories, eligibility for certification be available within 60 days of the act coming into force.

DR. DAVIDSON: Not less than 60 days.

MR. LOVE: That is right.

MR. LEWIS: No; not more than 60 days. It could be less.

MR. LOVE: Not more than 60 days; that is right. The proposal would give to the Public Service Staff Relations Board some discretion in assigning priorities within that period, but it would be possible for all employee organizations seeking certification, to come forward with their applications within a period not greater than 60 days.

Mr. CHATTERTON: What if they should not be ready to apply within the 60 days?

Mr. LOVE: This would present no problem because eligibility for certification would then continue beyond the 60 days for all organizations. So that any organization would come forward at any stage after the date specified by the Public Service Staff Relations Board within that 60 day period, or at any date thereafter.

Mr. LEWIS: So long as there is not a collective agreement before.

Mr. LOVE: That is right. I might just skip the next lines briefly and refer to the eligibility to enter into collective agreement. This is set, in the case of the operational category, at April 1, 1967; in the case of the scientific, professional, and technical categories, at January 1, 1968; and in the case of the administrative support and administrative and the foreign service categories, at April 1, 1968. These dates are related to the scheduled pay review dates and are designed to provide a reasonable period after those dates during which the parties could gain access to the data produced by the Pay Research Bureau.

Mr. LEWIS: What is meant by the words "eligibility to enter into collective agreement"? Do you really mean the date on which a collective agreement can first come into effect?

Mr. LOVE: That is right, it would be legally possible.

Mr. LEWIS: They could enter into it two months earlier, presumably, but the effective date would be the date you set out.

Mr. LOVE: No, these will be the first dates on which it would be legally possible to enter into a collective agreement.

Mr. WALKER: When can they start, can they not start before that date?

Mr. LOVE: Oh, yes; line three, which I skipped, indicates that it would be possible for notice to bargain to be given on behalf of any certified bargaining agent as of the dates indicated.

Now, I would like to make one point here with respect to the dates relating to the entry into a collective agreement. These dates would not necessarily be the earliest dates on which provisions in the agreement, particularly those relating to rates of pay, might take effect. Indeed, Mr. Benson has already indicated in a letter to the major employee organizations, that the government would be prepared to consider full retroactivity to the scheduled pay review dates, in so far as certain provisions of the agreements relating to rates of pay were concerned.

Although an organization could not legally enter into an agreement in the operational category until April 1, 1967, it would be possible for provisions relating to rates of pay to be written into those agreements with retroactivity back to October 1, 1966. This is the assumption on which the schedule is in fact based. The principal reason, however, for the dates relating to entry into a collective agreement is to provide during this transitional period for the parties to have a reasonable opportunity to gain access to the information of the Pay Research Bureau.

Mr. LEWIS: Have you read the bottom line, or have you reached it yet?

Mr. LOVE: The last line indicates the proposed dates, on which the first collective agreements would have to terminate.

Mr. LEWIS: Read in the dates.

Mr. LOVE: Oh, I am sorry. For the operational category the date is September 30, 1968; for the scientific, professional and technical categories, June 30, 1969; and for the administrative support and administrative and foreign service categories, September 30, 1969. This proposed provision is designed to protect the existing two year cycle during the first round of bargaining. The purpose of these sections is to provide both the employee organizations and the employer with a reasonable chance to adjust to the new relationship, without upsetting features of the existing system of pay determination that have generally been regarded, on both sides, as desirable.

Mr. LEWIS: In other words, the collective agreements would all terminate two years after the date in the first line.

Mr. LOVE: That is right.

Dr. DAVIDSON: I would like to add that the next round is an open question as to the length of agreement. This would be bargainable.

Mr. LEWIS: The words "notice to bargain" has one date opposite it; is that wise? What it means to me is that I must give notice on February 1, 1967.

Mr. LOVE: Well, these are the earliest dates, in the proposed schedule, on which notice to bargain could be given.

Mr. LEWIS: I see. I think it is going to be attached to bill that perhaps the words "notice to bargain" ought to be changed.

Mr. LOVE: I am sorry. The problem with a visual presentation is that the people who draft them like to have something simple so that they can be easily read. I do not think that it should be assumed that these words reflect in any really accurate way the wording of the proposed change or the wording of the proposed schedule.

Dr. DAVIDSON: Mr. Lewis, you can be assured that it will not be nearly this clear.

Mr. WALKER: I am delighted to know that Mr. Lewis cannot see the board; last time I could not spell correctly.

Mr. CHATTERTON: Is this to be included in the bill?

Mr. LOVE: It is proposed that they be included in the schedules of the bill. There has been a good deal of employee dissatisfaction expressed because in the bill, as it now stands, the specification of these dates would be left in the hands of the Governor in Council. Although this schedule expresses the intent from the beginning, it is hoped that it will have the effect of clearing up a great deal of the uncertainty that has been a cause of concern.

Mr. CHATTERTON: Is the "eligibility for certification" meant to be that of the bargaining agent?

Mr. LOVE: That is right, sir.

Mr. CHATTERTON: And how about the certification of the bargaining units?

Mr. LOVE: The same thing, sir. These are the earliest dates on which an employee organization could come forward to the board with an application for certification as bargaining agent in respect of a particular bargaining unit.

Mr. CHATTERTON: There is no way in which the bargaining unit can be changed then, at this stage; the certification of the unit that is the bargaining unit. Each category is a bargaining unit.

Mr. LOVE: That is right.

Mr. CHATTERTON: And that is not negotiable?

Mr. LOVE: That is right, sir, during the initial certification period; although some of the remarks that Dr. Davidson has still to make, with respect to clause 26, would have some effect on this.

Mr. LEWIS: Well, it is not each category anyway that will be a bargaining unit; you can have a group within a category.

Mr. LOVE: It is an occupational group, yes, within a category.

Mr. CHATTERTON: That will be explained in a moment, the possible variation of the bargaining units or groups.

Mr. LOVE: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee to keep going or to adjourn until this afternoon?

Mr. LEWIS: Adjourn.

The JOINT CHAIRMAN (*Mr. Richard*): Adjourn until after the orders of the day?

Mr. KNOWLES: Mr. Chairman I notice that you have planned three sessions for today. May I throw out the suggestion that it is almost certain there will be a recorded vote in the House of Commons at 8.15 this evening.

The JOINT CHAIRMAN (*Mr. Richard*): I had that in mind and I would say that if there is a vote—

Mr. WALKER: Mr. Chairman, a notice went out that we would continue at four o'clock rather than after orders of the day. Those members who are not here, if we happen to get here early, will not know they are to come early. Why not set it for four o'clock—providing the orders of the day are over.

The JOINT CHAIRMAN (*Mr. Richard*): Four o'clock, agreed?

Some hon. Members: Agreed.

AFTERNOON SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order.

Dr. DAVIDSON: Mr. Chairman, you will recall that this morning I indicated I would have a supplementary statement to make with respect to a related matter on clause 26 of the bill. This has to do, actually, with a point that was raised in the letter from the Association of Postal Officers this morning, namely, the problem that arises when a group of supervisory employees at a low level in the administrative hierarchy is contained within the same proposed bargaining unit as the employees whom they supervise, and when the employees supervised are in a substantial majority, and there are mutually good reasons why they do not wish to be associated, one with the other, in comprising a bargaining unit. My statement that follows has to do with this situation.

There is one other matter to which I would like to refer, having to do with the provisions of clause 26. As the members of the committee know, the bill in its

present form provides that during the initial certification period, within the limits which I outlined this morning, the Public Service Staff Relations Board would be required to determine bargaining units for the so-called central administration, that is, the employees who come within the jurisdiction of the Treasury Board, on the basis of the structure of occupational categories and groups. Indeed, the board would be required to establish, for each occupational group, not more than one bargaining unit. It is that last point that I want to touch upon. It is now clear that in certain occupational groups there may well be great reluctance on the part of employees at the lower levels, to be included in the same bargaining unit with employees in higher levels who supervise their work. There may be a similar reluctance on the part of some employees in the higher grades to be coupled with employees in the lower grades. An immediate and pressing example of the situation now exists in the Post Office Department. Under the proposed occupational grouping, some 2,000 postal officers would be included in the same occupational group with more than 20,000 postal clerks and letter-carriers. The two postal unions have already established constitutional barriers against the membership of postal officers in their unions. The effect of this has been to expel some 2,000 supervisory employees in the Post Office Department from these unions.

The postal officers, for their part, have responded by establishing their own organization, and as the letter of this morning indicates, are seeking bargaining rights as a separate group. This example, together with at least the possibility of similar situations arising in a limited number of other occupational groups has led us to the conclusion that the Public Service Staff Relations Board should be given greater flexibility than that which is now provided by clause 26 in the determination of bargaining units during the initial certification period.

It is therefore proposed for the consideration of the committee, that clause 26 should contain a provision which would authorize the Public Service Staff Relations Board to determine a bargaining unit comprised and consisting of one of the three following: Either all of the employees in a given occupational group, or all the employees in an occupational group other than those whose duties include the supervision of employees. Or, all employees in an occupational group whose duties include the supervision of employees in the group. In other words, an occupational group can either be recognized as a complete bargaining unit, including both supervisory and non-supervisory personnel to the extent that that seems to be acceptable, or, if there is such a difference in the point of view and attitude of the supervisory and the non-supervisory personnel within the occupational group as to make it desirable to do so, either or both of the two separate components could be recognized as a separate bargaining unit.

In concluding these opening remarks directed at clause 26, I should add that if the suggested changes that we have put forward this morning and this afternoon should prove to be acceptable, there will be certain consequential amendments necessary. These consequential amendments include the definitions in clause 2 of the bill that we have deferred for later consideration, namely, the definition of initial certification, the definition of occupational category, and the definition of occupational groups.

Mr. LEWIS: These are two questions that I would like to ask. I notice that you were limiting your suggested changes to the initial certification period. Why?

Dr. DAVIDSON: Because, thereafter Mr. Lewis, the board is free to certify bargaining units without regard to the initial occupational groups, if it considers it desirable to do so. It has complete freedom to group and re-group bargaining units provided it does not move across the lines of the occupational category, and therefore this proviso is required only in this initial certification period.

Mr. LEWIS: I understand your suggestion is that the only split the law would permit would be between non-supervisory and supervisory, no other.

Dr. DAVIDSON: That is what is proposed by this amendment.

Mr. BELL (*Carleton*): Mr. Chairman, I think the new proposals that Dr. Davidson has advanced are a very considerable and significant improvement upon clause 26. I think I—apart from saying that—would like to reserve comment until we see the actual draftsmanship of the new clause. I venture to suggest that perhaps, having had the statement—and Dr. Davidson has been kind enough to give us copies of what he said this morning—that perhaps we should proceed to other clauses, and take the opportunity of analyzing this in detail when we get the actual draft amendment in front of us.

Mr. LEWIS: Is that not available now?

Dr. DAVIDSON: I am afraid we have not got a draft amendment. We would have a working proposal later this afternoon, Mr. Lewis, but this would not be in a form that has been examined by the Justice Department or put in final shape by them.

Mr. LEWIS: When could we have that?

Dr. DAVIDSON: Within a half hour.

The JOINT CHAIRMAN (*Mr. Richard*): Would it be desirable that committee members should have a copy of this work document before the next meeting?

Dr. DAVIDSON: I beg your pardon, I correct myself, Mr. Chairman. I find that we have copies here which I think would be at least sufficient for the purposes of the Committee if you wish to take a preliminary look at them. But this is, I would add, the working draft which we have prepared for our own guidance as staff members and we have not yet put this through the Department of Justice.

Mr. WALKER: Mr. Chairman, it is a little difficult to envisage the scope of what Dr. Davidson has been talking about. Does that at all get into this question raised by the customs and excise component in connection with departmental bargaining under delegated authority?

Dr. DAVIDSON: I have not seen the reference, which Mr. Walker makes, to the customs and excise component.

Mr. WALKER: The Clerk just laid before me, and I suppose other members of the Committee, a copy of a letter from the association of postal officials as well as a submission from the Civil Service Federation of Canada dealing with a resolution recently passed at a customs and excise meeting.

Mr. LEWIS: That is a resolution passed by the alliance at its founding convention on the submission—

Mr. WALKER: Yes, it was submitted to the alliance.

Mr. LEWIS: It is now policy of the alliance.

Mr. WALKER: I am just wondering if the problem that arises from it is subject matter of clause 26.

Dr. DAVIDSON: I have not seen, Mr. Chairman, what was in this piece of paper.

The JOINT CHAIRMAN (*Mr. Richard*): Since reference has been made to this document I suppose it should be—

Mr. BELL (*Carleton*): Have it printed as an appendix.

Dr. DAVIDSON: My impression, I must say, is that the proposal that we have made would not cover this situation.

Mr. WALKER: After consideration has been given to this resolution, is clause 26 the place for it to be considered?

Mr. LEWIS: Paragraph (c) of the letter is. Paragraph (c) of the resolution affects clause 26.

Mr. RODDICK: Mr. Chairman, if I could make an observation, I think that the issue that is raised in this letter, which I have seen, appears to me to relate to the exclusive responsibility of a bargaining agent. That is a rather complex concept which I do not think is rooted in any one section of the bill, but it is rooted rather precisely in one or two which are not 26 but are later on—I do not recollect the specific clause—but that relating to an effective certification.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee to have this working paper so we may acquaint ourselves with the material and at the next meeting when we have a draft of the proposed section it may be easier for the members to discuss it.

Mr. BELL (*Carleton*): I am quite happy to welcome and receive it but I think it is the first time I ever had in Committee working papers. I hope it will not be considered a precedent because I expect to be sitting on the other side of the table some time soon.

Mr. WALKER: Do not let that bother you.

Dr. DAVIDSON: Mr. Chairman, I would certainly prefer to circulate a draft amendment that was in reasonably final form and approved by the Department of Justice officials before we turn our attention to the detailed text of the wording; otherwise we might be wasting the Committee's time in discussing wording that the Department of Justice would rule out anyway.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed then with—Mr. Émard, did you have a question on clause 26?

Mr. ÉMARD: Well, I had some general observations relating to clause 26.

(*Translation*)

I would like to say, first of all, that I share the opinion expressed by Mr. Bell as to the amendments which have been suggested by Dr. Davidson, but before considering clause 26, I have noted a few restrictions in going through the Bill, restrictions which I consider to be most important, and which will limit the scope of collective bargaining. I think that the Government, directly or indirectly, will allow its employees to bargain with it, but under the following conditions. These are the ones which I noted and which I think we should take into consideration.

First of all, on the date that it will determine. The Government, directly or indirectly, will determine the date. Secondly, the employees will be divided into six categories. Thirdly, the categories will then be divided into 73 groups. Fourthly, the same trade union will have to represent all the employees of this group throughout Canada. Fifthly, in order to be certified, the organization will have to represent the majority of the members and inform the Board in advance whether it chooses arbitration or strike.

6. The employer reserves for himself, the exclusive right to:

- (a) Group and classify the positions;
- (b) Designate the employees who are excluded;
- (c) Appoint all members of the Public Service Staff Relations Board;
- (d) Appoint the Chairman of the arbitration tribunal, the other members being appointed by the Board;
- (e) Appointment of a conciliator, each party then appointing a representative;
- (f) Appoint the head arbitrator, and each party then, of course, appointing representatives.

In addition, the arbitration tribunal cannot decide on the following subjects: appointment, advancement, appreciation, transfers, lay-offs, dismissal, and all other conditions which have not been negotiated. And here, I want to call your attention to this. We will have the opportunity of discussing this later on: "and all other conditions which have not been negotiated", which means to say, that what is not included in collective bargaining, automatically then, exclusively belongs to the Government. Now, when the employees have fulfilled all these conditions, then they can start to bargain. Some of these restrictions are necessary, but I believe that it would be well to remind ourselves of this when we are speaking of the rights of employees.

The JOINT CHAIRMAN (*Mr. Richard*): These are your comments, Mr. Émard?

Mr. ÉMARD: Yes.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments of a general nature at this time?

Mr. LEWIS: Some of the points raised by Mr. Émard will undoubtedly come up under other clauses. This is the only reason I have not raised some of the points he mentioned.

Dr. DAVIDSON: I do not want to enter into a long, detailed discussion with Mr. Émard, but I would, with respect, suggest that there is a substantial difference between those prerogatives that under the bill are left in the hands of the Governor in Council and those that are left in the hands of the Public Service Staff Relations Board. Unless one assumes that the Public Service Staff Relations Board is simply the tool of the government, it does seem to me it is an important distinction to keep in mind. There is a difference between the things that the Public Service Staff Relations Board has the authority to deal with and the things which, because there is really no other authority to deal with them, are left under this bill with the Governor in Council.

(Translation)

Mr. ÉMARD: I am in complete agreement, Dr. Davidson, but what I did want to point out is that it is not in the hands of the employees, so indirectly then it is on the other side. But I agree with what you say.

(English)

The JOINT CHAIRMAN (Mr. Richard): Shall Clause 26 stand.

Clause 26 stands.

On clause 27—*Application by employee organization*

Mr. LEWIS: If we are going to consider this new resolution of the alliance, would it not be advisable to have it explained because even though the letter over Mr. Edwards' signature draws attention only to what is (b) in that resolution; the resolution contains more than that. In other words, the letter draws attention to the concern with regard to the departmental bargaining but the resolution itself goes further. I am not so concerned with (a) which is a submission already made to the Committee in previous submissions, but I would like to understand what they mean by (c) in practical, concrete terms, as well as (b), unless the officers know what is involved.

Mr. LOVE: Mr. Chairman, I cannot speak for the alliance, so I am not sure exactly what was in their minds when they drafted this particular resolution, but I do know that at the preparatory committee stage of the development of this package, if I may call it that, there was a good deal of talk about the possibility of two levels of bargaining with two levels of certification; one involving a certification which would carry with it the right to bargain with the government of Canada as employer and the other a level of certification which would carry with it the right to bargain with departmental authorities. The only thing I can say on that is that, after a great deal of consideration, it was rejected by the preparatory committee, because the more we looked at it the more we could see all kinds of very difficult jurisdictional problems. It raised the prospect, for example, of an organization that might be certified at the government level and be granted exclusive bargaining rights in respect of employees in a particular occupational unit and, then, at the second level of certification another organization might be certified to represent employees in the same occupational group in a particular department. The prospect of having two organizations, each purporting to speak for the same group of employees at the departmental level, represented a problem which we did not think could be overcome.

The JOINT CHAIRMAN (Mr. Richard): Excuse me. We have with us Mr. Edwards, and if the members of the Committee would rather have him explain the position which the customs and excise component submitted as a resolution to the Public Service Alliance meeting; maybe he could tell us what is meant. Is it agreed?

Mr. CLAUDE EDWARDS (President, Public Service Alliance of Canada): This is in regard to the resolution I take it, Mr. Chairman?

- (b) Bargaining at the departmental level on any subject on which the final authority is delegated to a department or departments;
- (c) The granting of certification for purposes of departmental bargaining to the organization having a majority of 50 per cent plus 1 of the employees of a department.

The position, of course, of the federation and the Public Service Alliance is organized on the basis of departmental structures and there may well be certain items that can be bargained at the departmental level. With delegation of great deal of authority to deputy heads of departments there should be provision made for a structured organization within a department to have some part in the determination of conditions that can be the responsibility, and the sole responsibility, of the deputy head of the department. This is, of course, what the customs and excise component of the Public Service Alliance is putting forward. This is a position which has been put forward in the past by the Civil Service Federation and was contained in our brief in regard to departmental organizations having the right to determine or to be part of the determining process on a bargaining relationship at the departmental level in matters which can be determined at the departmental level.

Mr. LEWIS: Suppose you have a group and the Public Service Alliance is recognized as the bargaining agent for the group, and the group goes across departments: does this mean that if members of that group in a given department, or 50 per cent plus one of them, want a separate bargaining unit that they should be able to obtain it?

Mr. EDWARDS: No, that was not the idea of a separate bargaining unit. It is more the idea of being able to bargain on matters that are within the prerogative of the deputy head. It is very similar to what you would find in industrial bargaining where you might have an agreement which is throughout the whole industry-wide but you might have plant rules negotiated at the plant level.

Mr. LEWIS: That was what was in my mind. Mr. Chairman, if I may, are you not confusing two things? You say (c) asks for the kind of change that would enable the staff relations board to grant certification to some organization representing the department only.

Mr. EDWARDS: But only for the purposes in regard to things that could be handled at the departmental level. Let us say that the starting hours of work might be different in one department or another. You might have a—

Mr. LEWIS: I appreciate that. But, if I may say so with respect, you have two things and that is why I wanted someone to explain the thing to me. As I read it I noted two things mixed up. You have your bargaining unit which might consist of a group across the country and you have the Public Service Alliance which, let us assume, is the bargaining agent. Now, surely it is up to you to compose your bargaining committee in such a way that all the departments are represented at the bargaining table. It is up to you, then, as the bargaining agent to present to the employer requests stemming from the membership in a given department and they could easily be included in the one collective bargaining agreement. I do not see why—and I am not putting this in an argumentative sense—I just do not understand why it was thought necessary that there should be separate certification covering presumably only an area of the bargaining. In other words, if you bargain for the entire unit across Canada, Public Service Alliance bargains for all matters except hours in the customs and excise component, and then somebody else is certified for the purpose of bargaining as to hours in that department. That I do not understand.

Mr. EDWARDS: I think this was the attempt behind the resolution. I am not denying that there may not be confusing relationships resulting from this. But

certainly what they were concerned with was that there were certain matters that could be bargained at a departmental level, such as the starting hours of work and finishing hours of work within a period of time. It is quite possible that you will have a number of bargaining units represented nation-wide with representations within departments but the departmental organizations felt that the majority representation in a department, for instance, should determine what the hours of work should be for the majority of people in the department.

Mr. WALKER: May I ask Mr. Edwards a question? Do these proposals reflect possibly a lack of confidence that the larger bargaining units really are aware of and would have enough knowledge of the fact at that departmental level to bargain in the interest of this—

Mr. EDWARDS: This might well be the concern that lies behind this.

Mr. LEWIS: Mr. Edwards, surely that is the organization's job. I hope you will forgive me for giving an example which has occurred to me. Let us take the Ontario Hydro employees' union. You have in it a fairly large unit, there are about 10,000 or more. You have the installers, the repairers, the maintainers and then you have the groups of people in the office from very skilled draftsmen to unskilled office boys. The way that organization does its work is that each classification, which would be equivalent to a department, has a committee which forms part of the over-all bargaining committee. Then, when you get to issues which concern the installers, the committee representing the installers will do the talking and will know what they are talking about. In the case of the draftsmen, the people representing the draftsmen will do the talking. That is an internal arrangement to make sure that your bargaining committee in any bargaining unit fully represents the various interests in that unit. That does not require separate certification for some organization.

Mr. EDWARDS: I might say that we are structuring the alliance in exactly that way.

(Translation)

Mr. ÉMARD: I am in complete agreement with what Mr. Lewis has just said. I think that it is a problem for the Alliance and I do not know if I can take the liberty of suggesting something. I feel however that the Alliance could perhaps easily get around this situation if, in their structure, there were various locals for various different types of work and different positions. There is nothing to prevent the Alliance with one classification, dividing itself into various locals, and these various locals would then be able to bargain under the same certification with the different departments for special working conditions.

(English)

Mr. EDWARDS: I do not deny there may well be other means of meeting the problem arising in this particular letter, but I think this is the concern of an organization that has been working in a relationship within a department for a long number of years, where they have been used to trying to establish at least the work rules for the people in the department in direct consultation with their deputy minister. They were concerned with being able to meet the requirements of a bargaining system in some similar fashion, of being able to handle not the problems of service-wide importance which they realize have to be bargained on a service-wide basis, but, they were concerned with meeting the problems within a department which would normally be within the prerogative of the depart-

mental head in some system of bargaining in reference to what could be bargained at a departmental level.

(Translation)

Mr. ÉMARD: In the system of collective bargaining of which you speak, you cannot have two different certifications for the same group. I hope your employees agree?

(English)

Mr. EDWARDS: I think that many of our people do agree with this. There are some others, of course, who do not. It is a position of part of our organization with particular concern for departmental relationship. They do fully understand the position on the national issues but do not agree with the position on the issues that can be dealt with at the local level.

Mr. WALKER: I have one other question, if I may. Does this problem confine itself to the very narrow field of delegated authority?

Mr. EDWARDS: That is right.

Mr. WALKER: The whole thing.

The JOINT CHAIRMAN (Mr. Richard): I think Mr. Edwards has explained the reason for his letter and the resolution. We will take that into consideration. Shall we proceed now to the next group, clauses 27 to 48. Order.

On clause 27—*Application by employee organization*

Mr. BELL (Carleton): Are there any general statements that Mr. Davidson is going to make?

Dr. DAVIDSON: The provisions relating to the certification of bargaining agents which are the subject matter of clauses 27 to 48 are, with one or two important exceptions, similar to those found in many labour relations statutes. Before conferring certification, the board is required in each case to determine the appropriate unit and to satisfy itself that the application for certification has majority support among the employees in that unit. If these requirements are met, and if the organization has specified the dispute settlement process—I am referring to the bill as it now stands, but we have something to say on this a little later—the board is obliged to certify the employee as a bargaining agent.

There is one additional requirement that must be met in the case of a council of employee organizations. The board must be satisfied, in the words of the bill, that appropriate legal and administrative arrangements have been made between the organizations forming the council to allow it to discharge its responsibilities as a bargaining agent. A requirement similar to this, I am informed, has recently been added to the Ontario act, and while there may have been some criticism before the Committee on the part of a number of staff associations with respect to the wording as contained in our bill, I think the purpose we have in mind may be reflected adequately if we also take a look at the wording contained in the Ontario legislation.

The Public Service Staff Relations Board in discharging its certification responsibilities will have full freedom to determine bargaining units on the expiration of the initial certification period, subject only to a requirement that bargaining units must not cross category lines. This was the point I referred to in my earlier exchange with Mr. Lewis.

During the initial certification period, however, except for the separate employers, the capacity of the board to determine units will be restricted, in so

far as the wording of the bill is concerned, to employees comprised within occupational groups. As the bill now reads, an employee organization is required to specify the dispute settlement before certificate can be conferred. The bargaining unit would be bound by the process selected for a three-year period. The bargaining agents would be permitted to apply to the board to change the process and as the present bill now stands, provided the board is satisfied that the proposed change has majority support, the board is required to record that change.

There are a number of alternative proposals that have been made and that we would be prepared to put to the Committee for consideration in connection with those provisions.

Finally, these sections provide the board with authority to revoke the certification of bargaining rights in certain specified circumstances. These relate to situations where upon application the board satisfies itself that the bargaining agent no longer represents a majority of employees in the bargaining unit. Other situations where certification may be revoked relate to such things as fraud, abandonment of bargaining rights, and so on.

This, Mr. Chairman, I think, gives a summary of the provisions as they now appear in the printed bill before the Committee. As I have already indicated, there are one or two points at which, having given consideration to the views as expressed before the Committee, the staff will have some suggestions to make which we hope will be regarded as improvements. These will be made as we come to the relevant clauses of the bill itself.

Mr. KNOWLES: Clause 36 is one of the clauses that you may have some changes to make in. What other sections are there?

Dr. DAVIDSON: There will be a change proposed in clause 35, having to do with subparagraph (d) on the top of page 18. There will be changes suggested in clauses 37 and 38, having to do with the period of time for which the choice of one or other bargaining procedure must be frozen and when it can be changed. I am looking also for the clause, which in its present form requires the option of arbitration or conciliation board to be selected before certification.

Mr. KNOWLES: That is clause 36.

Dr. DAVIDSON: We have a change to suggest there which in brief provides that the option is to be taken after certification but within 30 days after certification and before notice to bargain can commence.

Mr. LEWIS: I am going to get that, too, without a battle.

Dr. DAVIDSON: I am merely putting the information before the Committee so that it will at least know what the changes are that we have suggested.

Mr. KNOWLES: You told us about a working paper that you might work over some more tonight.

Dr. DAVIDSON: Not in connection with this block of sections, Mr. Knowles.

(Translation)

Mr. ÉMARD: If I understood correctly, Dr. Davidson, what you are proposing is that the organization which represents the membership would not have to make its option before certification, whether they want the strike option or the

arbitration option, but they would have 30 days in which to do so after being certified, that is it?

Dr. DAVIDSON: Yes.

Mr. ÉMARD: I think this is much better yet.

Mr. LEWIS: Before negotiations?

Mr. ÉMARD: Surely, why not?

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, shall we proceed by clause. We have not come to that great difficulty yet.

Mr. McCLEAVE: Why not "constitute" instead of "constitutes" in the third line? That, if I may use the expression, is hellishly bad English.

Dr. DAVIDSON: Could we refer this to the—

Mr. BELL (*Carleton*): Awkward draftsmanship.

Dr. DAVIDSON: —legal draftsmen.

Mr. BELL (*Carleton*): It is hard to read that "it considers constitutes".

Mr. LEWIS: You could say that it considers—

Mr. WALKER: You do not want to get mixed up.

Mr. LEWIS:—as a unit of employees appropriate for collective bargaining, or an appropriate unit of employees for collective bargaining.

Mr. KNOWLES: Strike the word out altogether. That it considers a unit.

Dr. DAVIDSON: I will be glad to report to the draftsmen, Mr. Chairman, that the word should be considered.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 27 stands for further draftsmanship.

Clause 27 stands.

(*Translation*)

Mr. LACHANCE: I am sorry, Mr. Chairman, if I arrived late. Could I ask Dr. Davidson if it is the Department's intention to suggest an amendment to consider the natural bargaining units?

(*English*)

Dr. DAVIDSON: We have in this morning's discussion, Mr. Lachance, proposed some very substantial changes to clause 26, a complete rewriting of clause 26, and among other things we have proposed that while the concept of the occupational group as the basis for the establishment of bargaining units through the initial certification period should be maintained, the authority should be taken out of the hands of the Governor in Council to specify and define these occupational groups and transferred to the Public Service Commission and to the Public Service Staff Relations Board. The Public Service Staff Relations Board should have the discretion to divide an occupational group on the basis of supervisory and non-supervisory employees, but that that is as far as it should have the authority to go in departing from the concept of the occupational group as the bargaining unit during the initial certification period.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Lachance.

Mr. LACHANCE: You probably noted certain statements which were made in the press and so on relative to natural bargaining units. Do the explanations that

you have just given come within the framework of what we could now commonly call a natural bargaining unit, or does it not at all in relation with this other matter?

Dr. DAVIDSON: There has been a variety of proposals advanced, Mr. Chairman, as to the degree of discretion that should be given to the public service staff relations board with respect to the establishment of bargaining units. We had the proposal referred to in the letter, for departmental bargaining units. We have had a proposal that was advanced with respect to regionally or locally based bargaining units and, the proposal that was also advanced with respect to the division of bargaining units on the basis of supervisory or non-supervisory responsibilities. I can only say at this stage that the only one of these that we have felt we could recommend to the Committee was the one that involved the authority being given to the Public Service Staff Relations Board to divide an occupational group into supervisory and non-supervisory for purposes of establishing the bargaining units. The most obvious and simple answer to this is the calendar of dates that appears on the easel in the corner of the room. It is now the 22nd of November; notice to bargain has to be given by the applicants for bargaining rights in the operational category by the 1st day of February, 1967, and it is for this reason that we feel there has to be a very large element of authority left in the hands of the board to predetermine the bargaining units on the basis of these occupational groups in this initial certification period.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lachance, we had this discussion this morning.

(*Translation*)

Mr. LACHANCE: Mr. Chairman, I would like to know whether this enters into conflict with which we generally call a natural bargaining group or unit?

Mr. ÉMARD: I have certain arguments to present in this regard but I am waiting for Section 37. It is contained in Section 37 if I remember correctly.

Mr. LACHANCE: I understand of course that you did speak about it this morning, but we are speaking of amendments that have been brought in by the Department.

The JOINT CHAIRMAN (*Mr. Richard*): We are on Clause 27, Mr. Lachance. We will be coming to clause 34 a little later on.

Mr. LEWIS: The answer to Mr. Lachance is that the amendment of which Dr. Davidson spoke does not touch the point he now raises.

Mr. LACHANCE: That is what I want to know. I want to know if these amendments are in relation to so-called natural—

Mr. LEWIS: You mean all the relatives in one bargaining unit?

Mr. LACHANCE: Yes, that is exactly what I want to know. I would like to know if these amendments are in relation to what some people call *unité naturelle de négociation*. I would like to know if there will be some amendments in connection with that.

Mr. LEWIS: This is confusing it with the term natural justice.

Mr. LACHANCE: It may be confusing but I would like to know if there would be any.

Dr. DAVIDSON: I am sufficiently unfamiliar with the expression *unité naturelle* that I can say to Mr. Lachance that there will be no amendments that I am aware of.

Mr. LACHANCE: That is what I wanted to know.

Mr. WALKER: Mr. Chairman, on clause 27, would this have to go back to the drafter if you simply said "an employee organization seeking to be certified as a bargaining unit for a group of employees that it deems to constitute a unit of employees". Surely that is simple enough. Would that have to go back.

Dr. DAVIDSON: That in its opinion.

Mr. WALKER: That in its opinion, that is all. Is it not simple enough that we can amend it.

Mr. LEWIS: I do not care about the wording, Mr. Chairman. I suppose if any words are changed we ought to see them. Personally, I think the law officers ought to change them.

Mr. BELL (*Carleton*): That it considers forms.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 27 stands.

On clause 28—*Application by council of organizations*.

Dr. DAVIDSON: This has to do with the council of employee organizations.

The JOINT CHAIRMAN (*Mr. Richard*): Shall the clause carry?

Mr. LEWIS: Just a moment, I can understand (a) although, with great respect, I think it is unnecessary; it is tautologous. Presumably you do not certify anybody who does not meet the requirements for certification. I do not see that these words are necessary but I have no objection to them. I do object to the very broad wording of (d). I have not seen the amendment to the Ontario labour relations act Dr. Davidson referred to.

Dr. DAVIDSON: Could I, gentlemen, read the relevant section of the Ontario legislation because I think, at least, it helps to clarify what is in our minds.

Mr. LEWIS: I think I can guess what you have in mind.

Dr. DAVIDSON: It says:

Before the board certifies such a council—

Referring to a council of employee organization.

—as a bargaining agent for the employees of an employer in a bargaining unit the board shall satisfy itself that each of the trade unions that is a constituent union of the council has vested appropriate authority in the council to enable it to discharge the responsibilities of a bargaining agent.

Mr. LEWIS: I buy that. I had not seen it, but may I point out that what you have is not limited to that point. You talk about appropriate legal and administrative arrangements. Administrative arrangements go beyond vesting authority. You give the board the authority to decide whether a particular structure of the bargaining unit which the council sets up is the kind of administrative arrangement that it is satisfied is adequate. I do not think that is the board's business. I think it is the union's business. I think if you have the simple proposition which you have just read from the Ontario act that makes very good sense. What you want to be sure of is that somebody purporting to represent a number of unions, in fact represents them.

Dr. DAVIDSON: A bit more than that if I may say so, Mr. Lewis; you also want to be satisfied that the council of employee organizations does have the same capacity to carry out the obligations that it enters into as the bargaining agent as the separate unions themselves would have if they were recognized as the bargaining unit directly.

Mr. LEWIS: This is exactly why I am trying to point out to you my reason for feeling uneasy about this provision, because I can visualize unions forming a council for the purpose of bargaining and then providing in the collective agreement that the servicing of that portion of the agreement that affects the employees of one of the components of the council be left to that component. To give you an example, suppose you had the Queen's Printer, you had pressmen, typographers, lithographers and bookbinders, I think. These four unions form a council—I am just using this as an example—for the purpose of bargaining, so that they bargain as a group. There is no reason why that council should by law be required to be the servicing agent of that agreement. If they decide that each one of the four unions will service its members in the various stages and that is written into the agreement, why not?

Mr. BELL (*Carleton*): That is just what this section purports to do.

Mr. LEWIS: No, it does not. It takes away from them that kind of right.

Mr. BELL (*Carleton*): No, I think it says that appropriate legal and administrative arrangements have been made between the organizations for the carrying out of the obligations. It does not say by whom the obligations are to be carried out. They may very well be carried out by the component employee organizations.

Mr. LEWIS: I can see that but that may easily change after certification. This is just one of the rigidities in the legislation that I urge you do not require. The council may agree on one form of collaboration during the life of an agreement. At the time of certification they may find, as a result of experience, that another form is better. What do they do? Do they apply anew for certification? Why this rigidity? I think if you have the simple provision that the Ontario act has, simply saying that the board has to be satisfied that the individual unions have vested authority in the council to bargain on their behalf, surely, that is all we, as legislators, are concerned with, that the council has the authority to bargain on behalf of and speak for these unions at the bargaining table. What they do afterwards with regard to administrative arrangements for servicing the agreement, for dealing with grievances, for a host of matters that arise under an agreement, why not leave that to them?

Dr. DAVIDSON: Mr. Chairman, it does seem to me that in the negotiation of a collective agreement both the employer and the bargaining agent for the employee are taking on responsibilities which it is expected they will be not only obliged to discharge but in a position to discharge. If the employer is dealing with a bargaining agent that represents directly the employees, it is assumed that when the bargaining agent representing the employee organization enters into an agreement that he will take the responsibility and that he has the authority to ensure that the membership of his organization abides by the terms of the agreement that he has negotiated. Therefore, there is a direct line of responsibility that can be established between the representative of the bargaining unit at the bargaining table and the membership of the union itself.

When two employee organizations unite for reasons of convenience or for other reasons and say, we will form a council for the purpose of having one representative sit for both of our respective groups at the bargaining table, it does seem to me that it is important not only that the representative sitting at the bargaining table should be able to show that he has the credentials to negotiate at the table with respect to both groups of employees, but it is surely also expected that he should be able to establish that he, or the council he represents, has the same degree of authority in his hands to bind the employee organizations on whose behalf he speaks as the officers of those two employee organizations would themselves have if they were there.

Mr. LEWIS: This is what we ought not to demand. I am not going to keep on arguing this, but this is precisely what you ought not to demand, with great respect, and what you do not need. If you have evidence that the individual unions have authorized and have vested in the council the authority to negotiate on their behalf, then you arrive at a collective agreement. Somewhere in this proposed bill you have a clause—I cannot remember which one, if you do not I fully agree you should have—which says the collective agreement is binding on the employer and the organization and the employees. Is there not such a clause? Yes. Then once the collective agreement is arrived at each member of the council and each employee who is a member of one of the unions of the council is bound by the collective agreement.

Now, the administrative arrangements which they may make for the purpose of servicing the agreement is, with great respect, not our business. It is much better—I do not want to use the trite term about being more democratic because I am not using it in any abstract sense—in realistic terms to leave it to them to make those arrangements.

Dr. DAVIDSON: Could I just perhaps bring forward, so we will know what is in this bill at this point, Mr. Chairman, the reference to clause 58 which says:

A collective agreement, is, subject to and for the purposes of this Act, binding on the employer and the bargaining agent—
Which would be the council in this case.

Mr. LEWIS: Yes.

Dr. DAVIDSON:

—that is a party thereto and on the employees in the bargaining unit in respect of which the bargaining agent has been certified ...

Mr. LEWIS: I thought there was such a clause.

Dr. DAVIDSON: What this does not say is that it is binding on the two employee organizations that join together for purposes of forming the council of employee organizations.

Mr. LEWIS: I have no hesitation in agreeing—I am speaking just for myself—that you change 58 to say that the collective bargaining agreement is binding on the bargaining agent and in the case of a council it is binding on each member of the council. I am not wording it now. I think that is what it should do; otherwise there is no sense in having collective agreement. What I object to is that some government body is going to have the say as to which kind of administrative arrangements those people make among themselves for servicing the agreement. I do not think that is our business.

Dr. DAVIDSON: Mr. Chairman, I think we are getting close to the core of the problem here, and I would certainly be prepared to say that we would consider a change in 28 (2)(b), that would bring the wording closer to the wording I read from the Ontario legislation which has to do with the assurance that appropriate authority is vested in the council to enable it to discharge the responsibilities of the bargaining agent. Then, provide for an appropriate change in clause 58 that would tie in the responsibility of the employee organizations which form the council for bargaining purposes.

Mr. LEWIS: As far as I am concerned I think that would meet my objections to the wording.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we stand clause 28 for further suggestions from Dr. Davidson?

Clause 28 stands.

On clause 29—*No application before employees eligible for collective bargaining.*

Dr. DAVIDSON: There will be a change in clause 29, Mr. Chairman, that is consequent upon the changes we are proposing to clause 26, and in effect it will simply provide that no employee organization may apply to the board for certification as a bargaining agent or bargaining unit prior to the date specified by the board under clause 26. These are the dates we propose to set in the schedule.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 29 stand?

Clause 29 stands.

On clause 30—*When agreement concluded for term of not more than two years.*

Dr. DAVIDSON: I think there is no problem in Section 30, Mr. Chairman, that I know of.

Clause agreed to.

On clause 31—*No certification where previous application refused within one year.*

Dr. DAVIDSON: The only problem with clause 31 that I would like to refer to in the marginal note. The last two words of the marginal note should read: "six months" to conform with the text of the clause.

Mr. WALKER: Does that have to go back to the drafters?

Mr. BELL (*Carleton*): I am not sure I understand this. Why by reason only of a technical error?

Dr. DAVIDSON: There are two situations, Mr. Bell. One is that the board may have refused certification and then find that it had refused certification by an error of its own or some error of a technical nature where if it had known the correct facts it would have decided otherwise. In this case it is not considered that it would be appropriate to require that there be a delay of six months in the board's reconsideration of the certification application. It can make the correction and change immediately. If on the other hand an organization applies for certification and the board, having the correct facts before it, determines, for example, that the applicant organization does not have a majority of the

members of this group, it refuses that application and there must then be a delay of six months before the application can be resubmitted.

An hon. MEMBER: In other words, you are anticipating that to err is human?

Mr. BELL (*Carleton*): Where there has been a genuine error of principle on the part of the board into what category does it fall?

Dr. DAVIDSON: An error of principle? In another clause, Mr. Bell, the board can reverse any order that it makes.

Mr. LEWIS: Or vary or reverse. That is in an earlier clause. The only difficulty about this that I can see, and I am not sure it is important to raise but I will mention it to you, you could have organization A apply on January 1, and its application dismissed because it does not have a majority of the people or because the bargaining unit it wanted was not appropriate. So it gets delayed for six months. Then, organization B may come in February 1. In that situation would organization A have a right to intervene, as it is called, on the application by organization B, if by that time it has corrected its position?

Dr. DAVIDSON: In the second instance, the intervention of organization A would not, of itself, be an application. It could not make application at that point.

Mr. LEWIS: With great respect, Dr. Davidson, it does not talk about an application. It talks about the board "shall not certify". What that means is that if A has applied on January 1, then it is not eligible for certification until July 1.

Dr. DAVIDSON: That is right.

Mr. LEWIS: Well, suppose during those six months another organization makes application for certification of the same bargaining unit, does that mean that A is completely washed out because by July 1 the other organization may be certified. Do you follow me?

Dr. DAVIDSON: Yes. Certainly there is nothing in the wording of this clause that denies the board the right to certify any other employee organization in the six months period and if organization B can substantiate its entitlement to be recognized as the certified bargaining agent for the group concerned the board is not only free but is obliged under the act to certify that organization. The point I was trying to make is that organization A would be entitled not to make reapplication but to intervene and register the reasons why it objected, if it did, to the certification of organization B at the point when organization B made application. Here we are dealing with a situation *inter alia* where proof that one or other organization represents 50 per cent of the membership is required.

Mr. LEWIS: I think probably experience will show that some change may be needed. I am not raising this lightly. I think you will find that people belong to more than one organization in many instances. Those who belong to A may also join B and A will never get another chance if B gets certified. Its intervention will not affect the membership of B. I am not sure that is a wise provision but it is perhaps a detail that you have to deal with after experience.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 31 carry?

Mr. WALKER: With a marginal correction.

Mr. LEWIS: The margin is not a part of the act.

Clause agreed to.

On clause 32—*Determination of unit appropriate for collective bargaining.*

Dr. DAVIDSON: Clause 32, Mr. Chairman, is the clause that deals with the important question of how the board proceeds to certification after the initial certification period has expired. This is the clause which gives to the board the authority to determine in its own way the appropriate bargaining units, the principal remaining limitation being that contained in subclause (3) which says in effect that a bargaining unit cannot be composed of employees who come from more than one or other of the five occupational categories. We have—

Mr. LEWIS: Is it five or six?

Dr. DAVIDSON: There are five that are listed in the bill.

Mr. LEWIS: And others that may—

Dr. DAVIDSON: And there are others that may be established. We are proposing, on that point, that the authority to establish the others should not rest with the Governor in Council but with the Public Service Staff Relations Board.

There will be a change in clause 32(1). The reference to subsection (3) of section 26 would have to be modified in light of the new text of section 26 when it appears and it will in fact be subsection (4). There is also a change that we propose to make to the last half of subclause (3) by the deletion of all the words after the word "relate" in line 3.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments? Shall clause 32 carry?

Mr. WALKER: We have not got the amendments.

Mr. LEWIS: Let it stand.

Dr. DAVIDSON: I can advise the Committee that the two changes we are proposing are that the reference to subsection 3 in line 3 of section 32(1) be changed to read "subsection 4" and that in subsection (3) as it presently appears the words after the word "relate" on the third line of page 17 be struck out.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 32 stands.

Mr. WALKER: If it is only paragraphing can we carry it as amended then?

Mr. LEWIS: That is assuming that subsection 4 of the unseen section 26 will be the subsection, is it not? I think you might as well stand it, Mr. Chairman.

Clause 32 stands.

Clause 33 carried.

On clause 34—*Certification of employee organization as bargaining unit.*

(*Translation*)

Mr. ÉMARD: Clause 34, if I understood correctly, says that when a group of employee represents the majority that group will be recognized throughout Canada, is that it? I am not so much in agreement with the principle of national representation. I understand the Government's point of view. I understand, for instance, that the Government cannot take the liberty of bargaining with several unions representing employees in the same group, that is to say, separately. The Government cannot negotiate separately with several unions representing employees of one and the same group. I also understand that it would not be practical to sign several separate collective agreements with the same group of

employees. It would be normal to have only one bargaining committee per group, only one collective agreement covering all employees in one group.

This is not to say however that employees cannot be represented by more than one organization within a group. We will have to impose certain limits as to the number of organizations to represent employees in a particular group. Personally, I believe that if the organization succeeds in grouping an important segment throughout the country, it should be certified as a bargaining agent. There are a great many considerations to be taken into account. We spoke of natural units but I could also speak of community of interest. First of all, though we have to consider the size of the country. We have to consider the difference in language and culture or the different concerns of people as individuals, and also, I think, we must have consideration for those who do not accept present representation. In addition to the fact that Confederation was built through a system of individual units, it is against the spirit of Confederation to have national units. You might perhaps tell me that at the present time, we do have national units, but we have to consider that the national bargaining units at the present time were accepted by the employees. I believe that Bill C-170 should not impose on public servants in each group only one association, but rather allow them a certain choice, a certain option, which could be exercised by allowing all organizations which have succeeded in having over 10 per cent of employees in one group to participate in negotiations. That is not to say that there will be ten, but it means that there would be the most you could have would be 10. I think that this is done elsewhere, in several places. In France, for instance, and I am taking this example though not necessarily to say that we should copy everything they do—you have different organizations, you even have Catholics, Communists, and Socialists, who are in the same bargaining committee to discuss their employer. I cannot see why we would not have the opportunity here, the employees would have an opportunity of grouping according to their community of interest in a rather large group. If the group does not represent 10 per cent then it could not be certified.

Bargaining is not all, you also have to have the result of the bargaining accepted by the membership and this is very important too. If you want to succeed, the members have to be represented by people who are close to them, who have some idea to explain to them, who can—perhaps it is not the expression I should use but all the same—who can sell the results of collective bargaining to the membership, subsequently. Besides this, when the collective agreement has been signed, it has to be policed. In other words, you have to supervise its application. This would be very difficult with units going from one end of the country to the other. The organization of a union is different from the organization of industry. Organization starts at the bottom in trade unions. Government should respect the principles of the labour movement, and one of the basic principles is that employees should be organized according to their community of interest beginning at the bottom, at the base. Bill C-170 is at the present time proposing a movement which is completely contrary to that principle. If we adopt legislation to group employees without taking their community of interests into account, the natural reaction will I think be a bad one.

And, if on the other hand, we allow the employees to group according to their interests, they will automatically seek to re-group. That is a natural

reaction. If we force them to group their natural reaction will be to move apart, whereas if on the other hand, we allow the employees to group according to their own interests, they will automatically seek to re-group. What I want here is not a grouping by provinces, although Quebec has particular problems in so far as language, culture, and reactions are concerned, as is well known. But there are other problems too, particular problems, and I think that if we have one association throughout Canada, the organization will probably have to suffer from these problems. For instance, take the problems or conditions in British Columbia. They certainly are not the same conditions in Alberta. If you wanted to group the provinces, the two of them together, say British Columbia with Alberta, I think you would have trouble, and this would be repeated for other provinces.

All the same I am personally convinced that if we put a minimum of 10 per cent for representation of employees, this would give the employees a chance to group according to their own community of interest, and to group too within single bargaining committee. The Government could then have one single collective bargaining per group, and have a committee which might be composed of various unions.

Mr. LACHANCE: Mr. Chairman, I consider that Mr. Émard has expressed some very interesting opinions, and I share most of them. When he spoke of natural bargaining units, this does not conflict, to my mind, with the matter of community of interest. It is rather a cause and effect relationship. It is precisely the community of interest of workers which will be the cause and the effect of recognition of this community of interest would necessarily bring on what I call, or what other people call too—perhaps it is the wrong designation, but at least it is what we call it—the natural bargaining units.

It is precisely this community of interest on the part of the members which requires a special arrangement. I understand that, you are not insisting on this idea of a natural bargaining unit. You are stressing rather bargaining units which are composed of different groups of workers represented by different organizations, if I understood correctly.

(English)

Mr. LEWIS: We do not have that problem.

The present bill permits you to have a number of unions joined together into a council for bargaining purposes. I think what Mr. Émard is talking about, if I may translate it in terms of the language of the bill—and it is not only clause 34, Mr. Émard; it is clause 32 as well—is that the Staff Relations Board have—I am not translating what he said, but putting it in the language of the bill—authority, when deciding on the appropriateness of a collective bargaining unit, to take into account not only the duties and classification of the employees in the proposed bargaining unit as now provided in clause 32, but to take into account also their community of interest.

When you get to clause 34, what you are talking about would amount to giving the Board the authority to determine not only that a group of employees in terms of the occupational group, but that some other unit may be appropriate, a part of a group, or parts of more than one group. This is really what it amounts to, leaving the other 10 per cent alone. So that what Mr. Émard is suggesting is

that the Board have authority to cut across occupational groups either within a group or with more than one group—not occupational categories but occupational groups. Is that not right?

Mr. ÉMARD: That is right.

Mr. LEWIS: There is no doubt that splitting up an occupational group is what is involved. If you take, say, the members of a group resident in Ontario who think—and I am deliberately using Ontario—that they have a community of interest different from the rest of the group across Canada, you give them the right to be represented by another bargaining agent. Is that right?

Mr. ÉMARD: If they so choose.

Mr. LACHANCE: But in the same category.

Mr. LEWIS: Oh, yes. But the categories are not very difficult because there are only six or seven of them.

Mr. ÉMARD: It is not the categories; it is the 68 or 73—what is it?

Mr. LEWIS: There are seventy-three occupational groups that the Board would have the authority to split any one of them up on the basis of some community of interest because—let us be frank—they think that their language connection or their particular attitude toward a thing makes them more appropriate as a bargaining unit.

Mr. WALKER: This is the extreme. If it is 10 per cent you would multiply 73 by 10, and you could have 730 if the principle is followed.

Mr. BELL (*Carleton*): A better example than Ontario would be British Columbia, which is a very high wage area, and where they would naturally think there was some affinity, and where they would expect to get considerably higher wage or salary conditions than they would get in a low-wage area in Newfoundland.

Mr. ÉMARD: They would all be in the same group for negotiations; they would not be bargaining separately. Every group would have to get together and be on the same bargaining unit, and bargain only one collective agreement which would apply to all.

Dr. DAVIDSON: Mr. Chairman, if I understand Mr. Émard correctly in this last point, what he is really saying is that just as it is possible for two employee organizations to join together voluntarily to form a council of employee organizations which will bargain on behalf of those two employee organizations that have joined together, so in the case where there is an identifiable separate 10 per cent of an occupational group that has a community of interest that is separate from that of the 90 per cent it will, as I understand it, be obligatory for the Public Service Staff Relations Board to establish what is, in effect, a council of employee organizations for that occupational group. One of the associations will represent 90 per cent of the membership and the other the 10 per cent that have a separate community of interest, and this council will then bargain on behalf of the two groups.

Mr. ÉMARD: That is exactly it.

Mr. LACHANCE: Is this possible?

Dr. DAVIDSON: Mr. Chairman, I think every member of the Committee will realize that this is a matter of the highest political importance, and a matter on which a person in my position should not presume to express an opinion on behalf of the government without first having been briefed as to what he should say.

There are just two or three points that I would like to make by way of clarification, without venturing to express an opinion. One is that after the initial certification period there is, as I read clause 32, no restriction on the authority of the board to do this if it can be convinced that it should do so. I think I have interpreted correctly Mr. Émard's suggestion as calling for councils of employee organizations determined by the Public Service Staff Relations Board rather than by the voluntary consent of the two groups within the occupational group. Having said that, I have to add that what we have tried to do in preparing this bill is to bring the public service of Canada to a point where it can be said that the collective bargaining arrangements that are being made available to it are reasonably comparable with the collective bargaining arrangements that exist outside the government service for employees coming under federal jurisdiction and the Industrial Relations and Disputes Investigation Act.

We are having, I must say with deference to the Committee, a hard enough time even as things now stand bringing ourselves into the middle of the 20th century with this legislation; and I venture to suggest that what Mr. Émard is suggesting is something that will carry us in advance of the point which has been reached in collective bargaining legislation under the Industrial Relations and Disputes Investigation Act or in other segments of the non-governmental labour force, so far as I am aware. I feel that it would be better for us to try to gain some experience with the familiar patterns and conventions in the collective bargaining field before we venture into *terra incognita*, which some day may be the new patterns that will be emerging in labour legislation generally.

Mr. LEWIS: You prefer *terra firma*.

Mr. WALKER: The more *firma* the less *terra*.

Dr. DAVIDSON: I think those who have more experience that we should be the venturesome pioneers in this delicate area.

Mr. LEWIS: Mr. Émard was throwing this out as a suggestion. Perhaps, you need not go as far as Mr. Émard suggested, but you might give consideration—and this I suggest on general principles, not only on the point that I know Mr. Émard has in mind—to putting in clause 32 (2) the idea that it should take into account the community of interest, leaving it to the Staff Relations Board to decide what that means—we cannot avoid that—and then consider giving the Staff Relations Board—I am not making an amendment, I am just saying that this is an alternative way of doing it instead of the 10 per cent—the discretion to determine a bargaining unit of less than an occupational group if, in its wisdom, the community of interests of a given segment of employees in an occupational group justifies it. I am just suggesting that as a possible alternative which will go some way toward what Mr. Émard is after, and an organization representing any number, whether it be 10 per cent, 5 per cent or 25 per cent, having a community of interests, can go to the board and argue that community of interests, and if the board agrees with them, it could have the authority to certify it. I am not saying that this is a good or a bad thing, but this is one way of approaching the problem raised.

Mr. LACHANCE: Is it possible that those in the department—

The JOINT CHAIRMAN (*Mr. Richard*): I think you will agree, Mr. Lachance, generally speaking, that this is a matter of policy and Dr. Davidson cannot make any decision here.

Mr. LACHANCE: I know that Dr. Davidson cannot make the decision himself, but would it be possible to make available to the Committee some amendment which would be put in the right form. If a member of the Committee moved an amendment, it may not be in the proper terms and it may not give the proper reference. The officers of the department know the bill so well that they could submit some amendment in the form that Mr. Lewis mentioned.

(*Translation*)

The JOINT CHAIRMAN (*Senator Bourget*): Why then do you not submit an amendment, both of you? You could prepare one together and then submit to Dr. Davidson and his aides so that they can then see whether it could be included in sections 32 and 34. I think that this would be the best thing, otherwise we can discuss this a long time—

(*English*)

Mr. LEWIS: It is desirable to know, after Dr. Davidson gives it thought and consults higher authority, whether they are of opinion that any change should be made in the setup they now propose.

Mr. LACHANCE: I think that would be the best procedure.

Mr. LEWIS: Why do we not have word from Dr. Davidson sometime later, when he has had time to consult those whom he must consult, on an issue as important as this, before we attempt any amendments.

(*Translation*)

Mr. ÉMARD: My intention, Mr. Chairman, was to ask for permission to bring in an amendment for the next meeting.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): I think it is your privilege to present any type of amendment you have in mind at our next meeting.

Shall we stand section 34 or are there any other comments?

Mr. LEWIS: I would like to know how you are going to satisfy yourself about subparagraph (d). What is intended?

Dr. DAVIDSON: Mr. Chairman, I do have some changes of wording to make at the end of subparagraph (d) of section 34. Strike out the words after "organizations"; that is to say, strike out the words "in the regulation of relations between the employer and such members", and substitute the words "in the making of such application." I think the point here is merely that the board should be satisfied that the persons representing the employee organization in the making of an application have been duly authorized to act for the members of the organization in the making of that application.

Mr. LEWIS: But how—and I am not questioning it.

Dr. DAVIDSON: By checking on the credentials of the persons whose names appear on the application forms. It should be possible for them by affidavit, or by

a copy of the resolution of the employee organization concerned, or the executive committee to establish that they have the authority in the name of the employee organization to make the application. That is as far as the requirement of establishing their credentials should have to go.

Clause 34 stands.

The JOINT CHAIRMAN (*Mr. Richard*): Do you wish to continue. It is now 5.45.

Mr. WALKER: I would just as soon stay here for the next 15 minutes. Let us go on.

The JOINT CHAIRMAN (*Mr. Richard*):

On clause 35—*Powers of board in relation to certification.*

Dr. DAVIDSON: I have already mentioned that we are proposing to delete subparagraph (d) of clause 35 on page 18.

Mr. WALKER: Is that your only amendment to clause 35?

Dr. DAVIDSON: Yes sir.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments on clause 35?

Mr. LEWIS: I suppose it has to be formally moved that subparagraph (d) be deleted.

Mr. WALKER: I move that subparagraph (d) of subclause (1) of clause 35 be deleted.

Amendment agreed to.

Clause 35, as amended agreed to.

On clause 36—*Specification of process for resolution of disputes as condition of certification.*

Dr. DAVIDSON: Mr. Chairman, clause 36 is the one where we propose to change the requirement that an applicant for certification as a bargaining agent must specify which of the two routes he proposes to take before certification is granted, to a new provision which will require them to make this option within 30 days after certification is granted.

Mr. LEWIS: Mr. Chairman, I seriously suggest we might adjourn, because I imagine the discussion, argument or debate on this proposal will take longer than 10 minutes.

The JOINT CHAIRMAN (*Mr. Richard*): Are you serious?

Mr. LEWIS: I am, because the attempt to force these organizations to make up their minds as to which road they are to follow before they begin negotiating, I cannot buy. I do not think any interest will be served by it. I think they ought to have the right after they have negotiated, not before they even start.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 36.

Clause 36 stands.

On clause 37—*Certification to record process for resolution of disputes.*

Dr. DAVIDSON: Clause 37 hangs so closely, I think, to clause 36 that it will have to await the outcome of the discussion.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 37.

Clause 37 stands.

On clause 38—*Application for alteration of process.*

Mr. LEWIS: This is also related to clause 36.

Dr. DAVIDSON: These are all related.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 38. Clause 38 stands.

The JOINT CHAIRMAN (*Mr. Richard*): The committee will adjourn.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order, please. When we adjourned we were about to proceed with clause 39.

On clause 39—*Where participation by employer in formation of employee organization.*

Dr. DAVIDSON: I think Mr. Chairman, so far as Clause 39 was concerned, subclause (1) and subclause (3) may not cause the Committee any difficulty. Subclause (2) however, relates to the problem of contributions paid for activities by a political party. This is tied up directly to the provision in the Public Service Employment Bill dealing with the similar subject matter, and I believe that that has been stood for the final consideration of the Committee.

The JOINT CHAIRMAN (*Mr. Richard*): Is there anything else in Clause 39?

Mr. LEWIS: I believe if my colleague Mr. Knowles, were here he would move the insertion of the word "sex" before "race". But seriously, we have made that amendment in Bill No. C-181. Should we not be consistent?

Dr. DAVIDSON: We were prepared to raise this point ourselves, Mr. Chairman. If it is a fact that the Committee has made this change in Bill No. C-181 there is no reason why it should not be made here. That is something that all members can agree upon.

Mr. Chairman, can I venture to suggest that we clear subclauses (1) and (3) if possible so that when we come back to clause 39 we only have to come back to subclause (2).

Mr. BELL (*Carleton*): With the inclusion in subclause (3).

Mr. LEWIS: I move that clause 39 subclause (3) be amended by inserting the word "sex" before the word "race".

Amendment agreed to.

Clause 39 subclauses (1) and (3), as amended, agreed to.

Subclause (2) stands.

Clause 40 agreed to.

On clause 41—*Application for declaration that employee organization no longer represents employees.*

Dr. DAVIDSON: This is the first section dealing with provisions on revocation. It provides that a person claiming to represent a majority of the employees in a bargaining unit, may apply to the Board for a declaration that the certified employee organization no longer represents a majority of the employees therein. On that initiative being taken by a person who claims to represent a majority of the employees, and is challenging the right of the employee organization to represent the majority, the Board will proceed in accordance with the provisions of subsections 2, 3 and 4. The provisions of subsection (2) are identical with the

provisions of section 30 of the bill that we have already approved, that provide for the point in time at which these challenges to the mandate of the bargaining agents can be made. Subclause (3) provides that the Board may take a referendum, and that the procedures are the same as have been approved in subclause (2) of clause 35. Finally, in subclause (4), the Board has the authority, if it is satisfied that a majority of the employees in the bargaining unit no longer wish to be represented by the employee organization in question to revoke the certificate.

Clause 41 agreed to.

Clause 42 agreed to.

On clause 43—*Certification obtained by fraud.*

Dr. DAVIDSON: This is the clause that relates to the revocation of the certificate of an employee organization where it appears to the Board that fraud is involved. We ourselves have in mind suggesting to the Committee for consideration the substitution of the words "where at any time the Board is satisfied", rather than "where it appears to the Board". This seems to us to be a better way to express it. Then it would read on the fourth line where the Board is satisfied, "the Board shall revoke" rather than "may revoke".

The JOINT CHAIRMAN (Mr. Richard): Will you read it then in full.

Dr. DAVIDSON: Yes. Subclause (1) would read:

"Where at any time the Board is satisfied that an employee organization has obtained certification as bargaining agent for a bargaining unit by fraud, the Board shall revoke the certification of such employee organization."

Amendment agreed to.

Dr. DAVIDSON: 43(2) is unchanged.

Clause 43 as amended, agreed to.

Clause 44—*Revocation of certification of council.*

Dr. DAVIDSON: In clause 44 sir, we would suggest the deletion of the first two and a half lines, down to the word "revoked". For the remainder of the text could remain as it stands.

Mr. BELL (Carleton): Why?

Dr. DAVIDSON: Could I ask Mr. Bell which of my two propositions his question relates to.

Mr. BELL (Carleton): Proposal to delete.

Dr. DAVIDSON: As being unnecessary, because clauses 41, 42 and 43 refer to employee organizations and the circumstances under which the certificate of employee organizations can be revoked. Employee organizations are defined as including a council of employee organizations. Therefore, at best these two and a half lines are superfluous. The rest of the section refers only to revocation that applies to an employee organization which is a council.

Mr. CHATTERTON: Why does it refer to a council only, then?

Mr. LEWIS: In the case of a regular employee organization, I as an employee may seek its decertification, if the council is altered in one of the constituent organizations.

Mr. CHATTERTON: Correct.

Mr. Walker: I move that the first two and a half lines of clause 44 up to and including the word "revoked" be deleted.

Amendment agreed to.

Clause 44, as amended, agreed to.

On clause 45—*Effect of revocation where collective agreement or arbitral award in force.*

Dr. DAVIDSON: Clause 45 deals with the effect of revocation on existing collective agreements. It provides that where, at the time the certification of a bargaining agent is revoked, a collective agreement is in effect or an arbitral award, and where there is no other employee organization replacing the decertified bargaining agent, the revocation of the certificate will have the effect of nullifying or at least terminating the agreement or award.

Mr. LEWIS: I just want to ask you whether this is entirely wise. I see what you are after but there are certain rights and so on flowing from the agreement to the employees. Is that covered?

Dr. DAVIDSON: This, I think, Mr. Lewis, you will find is covered in clause 47 but this clause is based on the proposition that to have a collective agreement of continuing validity, you must have two parties in existence to maintain the agreement.

Mr. LEWIS: I understand that.

Dr. DAVIDSON: Then clause 47, which we will come to in a moment, does provide that the board may determine what residual rights, you might say, flowing from the cancelled collective agreement shall be maintained in respect of individual employees. Perhaps, we can look at that.

Clause 45 agreed to.

On clause 46—*Determination of rights of bargaining agent by Board.*

Dr. DAVIDSON: Clause 46 is a companion measure, Mr. Chairman. Where the certification of a bargaining agent is revoked by the board pursuant to any one of the previous causes for revocation except for fraud, then any question as to any right or duty of the bargaining agent past or present, is to be resolved by the board. In the case of a certification that is voided because of fraud, you will see under clause 43 (2) above that there is no question of determining whether it is the past or the new bargaining agent who is responsible; the certification and the agreement are voided by the fact of its having been entered into by fraud.

In all of these cases—to go on, if I may, to clause 47—whether the certification of the bargaining agent is voided for reasons other than fraud or for reasons of fraud, it is left to the board to determine what rights and privileges the individual employee may retain notwithstanding the fact that the agreement, by which those rights and privileges were obtained, may have been voided.

Clause 46 agreed to.

On clause 47—*Direction as to manner in which rights acquired by employee are to be recognized.*

Mr. LEWIS: Clause 47 goes a little further and, I think, correctly. They do not merely decide what rights but also the manner in which the rights may be exercised.

Dr. DAVIDSON: Yes. Might I just add, on that point, Mr. Chairman, that of course back of all this lies the fact that as collective agreements are introduced, in a great many cases it will be necessary for the Treasury Board, under the terms of the Financial Administration Act, to make orders authorizing pay schedules to be revised and other conditions of employment to be given authority under the provisions of the Financial Administration Act. So, even if the collective agreement is voided, a great many of the conditions of employment that are enshrined in the collective agreement will, in the meantime, have been made a subject of Treasury Board orders and those orders will not be voided merely because the collective agreement itself was voided.

Mr. LEWIS: One other thing they thought of is this. I noticed the words "direct the manner in which any right may be recognized and given effect to" is the grievance procedure, and presumably the board might decide to have a committee elected by the employees carry on with the grievance procedure even though the bargaining agent is out.

Dr. DAVIDSON: As the interim agency to process the grievances on behalf of the employees.

Mr. LEWIS: I imagine that this would give them the authority to make some temporary arrangement like that.

Clause 47 agreed to.

On clause 48—*Mergers, amalgamations and transfers of jurisdiction.*

Dr. DAVIDSON: This merely provides that where there is a merger or amalgamation of two employee organizations and any question arises concerning the rights, privileges and duties of one under the act or under a collective agreement, then on referral to the board by an employee organization that is affected by this amalgamation, the board may examine the question and may determine the issue that is referred to it.

Clause 48 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, a new group of clauses follows, beginning at clause 49 and going to clause 58, under Negotiation of Collective Agreements.

On clause 49—*Notice to bargain collectively.*

Mr. LOVE: Mr. Chairman, the bill provides for compulsory collective bargaining in defined circumstances. Where a bargaining agent has been certified and notice to bargain has been given, the parties are required to bargain collectively in good faith and make every reasonable effort to conclude a collective agreement. The employer is prohibited from altering any term or condition of employment in force at the time a notice to bargain is given until a collective agreement has been entered into or the dispute settlement processes provided in the bill have been completed. These provisions are comparable to those established under the I.R.D.I. Act. There are no limitations on the matters that may be discussed at the bargaining table. There are certain limitations, however, on the subject matter of collective agreements. These relate to matters which would require legislative action for their implementation or require the amendment of regulations established pursuant to a statute dealing with terms and conditions of employment—that is, the Public Service Employment Act, the Public Service

Superannuation Act, the Government Employees Compensation Act and the Government Vessels Discipline Act.

The chairman of the board, on application by one of the parties, has authority to appoint a conciliator to assist the parties in reaching agreement where difficulties are being experienced in negotiations. Collective agreements are binding on the employer, the bargaining agent and employees in the bargaining unit.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments?

Mr. LEWIS: I have doubts about some of the limitations on what may go into an agreement. Instead of making a speech, I think when we get to the clause, we might discuss it.

Clause 49 agreed to.

Clause 50 agreed to.

Clause 51 agreed to.

On Clause 52—*When negotiating relationship terminated*.

Mr. LEWIS: I do not understand the need for it. Would someone enlighten me?

Mr. LOVE: Mr. Chairman, "negotiating relationship" is a phrase which is used, I think, in other provisions in the bill dealing with dispute settlement. Largely because of the provisions for arbitration, it was considered important to have a clear understanding in the bill as to when the parties are in a negotiating stance and when they cease to be in a negotiating stance, and the effect of this provision is simply to say that they are in a negotiating relationship until such time as a collective agreement has been entered into or a request for arbitration has been made in accordance with the provisions of the act.

Mr. LEWIS: That is what it says but could you direct me to other sections in the act which make this necessary? Unless, Mr. Chairman, there are some really valid reasons, I do not like the idea of suggesting that the negotiating relationship ever terminates.

Mr. RODDICK: Mr. Chairman, if I could comment on Mr. Lewis' question—the requirement for the negotiating relationship to start at a particular time, and to be seen to have terminated at the point where one of the parties seeks arbitration, is a very important provision in relation to the control of access to the arbitration tribunal.

Mr. LEWIS: Why?

Mr. RODDICK: The assumption is that the negotiating relationship is completed when either of the parties gives up trying to get a collective agreement and seeks arbitration. At that point, the intent is that the parties have lost their control over the matters and put that control in the hands of a third party.

Mr. LEWIS: I cannot understand why you are seeking this kind of rigidity. Suppose you go to the arbitration tribunal and the arbitrator, as often happens before an arbitrator or a court or any other body which has the authority to make a binding decision, listens to them and takes them in a room and says: "Look, you guys, why do I have to do this? Can we not use a bit of common sense?" What is wrong with that? And instead of having to bring down a binding decision, he is able, at that stage of the game, to suggest to them that they can

arrive at something. Either side can refuse to do it; it is not as if you give him the authority to do it but once you have this section in, then really you take from him the authority to do it; you tell the arbitrator the negotiating relationship is now ended, "You just go out there and make an adjudication, no matter what." Now, why do you need that?

Mr. LOVE: Mr. Chairman, this is one of the provisions which is in here really on the basis of the recommendations of the preparatory committee, as I recall it.

Mr. LEWIS: It does not make it any better.

Mr. LOVE: No, but that really was not my point. I think the preparatory committee was preoccupied, at least to some degree, with the problem of trying to put pressure on the parties to negotiate in good faith and to avoid the arbitration mechanism except in circumstances where it was the only solution. The feeling was that if the parties could rather lightly request arbitration in the full knowledge that they could continue to negotiate, they would be more likely to use the request for arbitration in a tactical sense. I think the purpose of this section is to try to ensure that the parties do in fact try, by every means possible, to work out their own problems without requesting arbitration.

Mr. LEWIS: You do not legislate this. Can you show me some other reason which has not yet been given? This is not a matter of principle except the principle that I do not think that a law relating to labour relations should ever recognize in words that the negotiating relationship is ever at an end. You arrive at an agreement, one week later. You have some experience, you sit down and negotiate a change in the mutual agreement. Why not? Why do you want to put this wall around there? You do not need it. If they go to arbitration, the act provides that the arbitrator makes a decision which is binding and if neither side or one of the sides refuse to do anything else but listen to the arbitrator and tell him their story and have him make an adjudication, that is fine. But why do you want to bind him? Why do you need this rigid wall around the thing? I urgently ask you to look at it. I think it is totally unnecessary. Give the arbitrator some leeway. What harm can it do?

Mr. BELL (*Carleton*): I must say that I have been persuaded greatly by what Mr. Lewis has said. I would hope that the section might stand and unless there have been reasons which have not been advanced, that it might be deleted.

The JOINT CHAIRMANS (*Mr. Richard*): Shall clause 52 stand?

Mr. WALKER: Are you suggesting that this relationship should not end even when the arbitrator is seized of this and is in the process of making his decision; that this should continue even when both parties have taken hands off and even when the arbitrator may have gone back and said "Is it cleared up", and they said, "No; you settle it for us." You are thinking that relationship should still carry on?

Mr. LEWIS: I think the philosophy of collective bargaining is that the relationship is an enending one; in fact, I have often said to unions that they ought to remember before they take strike votes or anything else that they are in a position where they cannot divorce. There is no divorce in the labour management relationship; you might have a different spouse, you know, another bargaining agent, but the relationship ever goes on. I think the philosophy is that a

particular set of negotiations come to an end but the negotiating relationship never does.

Mr. MACKASEY: Clause 52, of course, may give one party or the other second thoughts before appealing to arbitration. They could think, well, if we sleep on it tonight and decide to go back to negotiation tomorrow, we will already have burned our bridges according to clause 52, so before we appeal to arbitration, we had better have a second look at negotiations.

Mr. LEWIS: That is implied without clause 52. It is there. If you decide to go to arbitration, the arbitrator is given certain authority under this act. The authority is that he makes a decision.

Mr. MACKASEY: What you are saying is if the parties should abdicate him, too. They want to retain their right to negotiate and at the same time they want the help of an arbitrator. Now, as I see clause 52, it simply says to the two parties, "All right, the moment you ask for an arbitrator you cease officially to be in a process known as negotiation. So think twice before you go to it because tomorrow, on second thought, you might think perhaps you have another chance to negotiate."

Mr. LEWIS: I do not think it accomplishes this, Mr. Mackasey. I think that what it does accomplish is to say to the arbitrator that he has no leeway because so far as the parties are concerned, they know well enough that when they decide to go to arbitration, if they have chosen arbitration, and they negotiate and someone says, well, we cannot get anywhere, let us go to arbitration, that, in fact, means arbitration. It does not mean anything else. But if you do not have clause 52, you leave the thing more flexible for the arbitrator. If you have clause 52, you do not.

Mr. MACKASEY: He can tell both parties to go back to negotiating.

Mr. LEWIS: No. You might decide to ask for a mediator. I have seen that dozens of times. They come before him; they are so close together and he says; "I do not want to make a decision; I do not understand this problem well enough; you people are better qualified."

Mr. MACKASEY: That is a good point.

Mr. LOVE: I think, Mr. Chairman, that people who have worked on this legislation certainly would share the basic philosophy that Mr. Lewis put forward and I think, if the reference to the negotiating relationship is the cause of the difficulty, this could be examined. Certainly, we have assumed that the relationship between the employer and the certified bargaining agent is a continuing, non-ending thing. The sole purpose of clause 52 was that which has been stated. There is not too much experience to go on in Canadian labour law because there are few precedents for a law that provides for a permanent tribunal to arbitrate on matters of interest. A lot of people who have been against an arbitration mechanism of this kind have argued that, as long as you have arbitration at the end of the road, it will be difficult to get the parties to bargain collectively in good faith. As I said, the people who have worked on this have been somewhat preoccupied with the problem of trying to keep the parties away from arbitration until they have exhausted all of the possibilities of bilateral negotiation. The sole purpose, really, of this section is to prevent either of the parties from seeking arbitration lightly. We would like to think that they

had really come to the end of the road in terms of the possibilities of reaching agreement in bilateral talks.

Mr. LEWIS: I do not seem to be able to persuade you. My point is this. Let me use general terms without appearing to sermonize it. You can reach the end of the road at 10 o'clock tonight and decide to go to arbitration. Then you come together with the arbitrator, and what I want is that the arbitrator should not be placed in a position where he cannot, then, revise the negotiating relationship, if you like, which is what is desired. I do not think you need this clause to achieve what you want—certainly not for (a), for example. Why should the negotiating relationship end when you have signed a collective agreement? Neither side need to agree to reopen but if both sides do agree to reopen, why should the law not let them? Why should the law use language which says you cannot reopen, you found after a month of disagreement that something is not working and the employer says to the bargaining agent: "Let us look at this again. We think we made a mistake." The bargaining agent says: "All right." Then, by mutual agreement they revise the agreement they signed. What is wrong with that?

Mr. LOVE: There is nothing wrong with that, sir. I think there is provision for this in the bill, if I am not wrong.

Mr. KNOWLES: Yes, there is.

Mr. MACKASEY: But in subclause (a) it theoretically makes it illegal to try to negotiate.

Mr. LEWIS: You have a conflict between two clauses. I will move the deletion of clause 52 unless you would like to stand it to look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we let it stand?

An hon. MEMBER: Yes, let it stand.

Mr. LEWIS: There may be other reasons we have not thought about.

Clause 52 stands.

On clause 53—*Request for conciliation*.

Mr. LOVE: This is a provision which makes it possible for the parties to seek the assistance of a conciliator before the negotiating relationship, to use the language of the previous clause, has broken down or terminated.

Clause 53 agreed to.

On clause 54—*Report of conciliation*.

Mr. LEWIS: May I ask a general question of Dr. Davidson and his associates? Have they given any consideration to having some other officer of the board—the registrar or someone—to be concerned with the appointment of conciliators, arbitrators and so on. I am very much concerned with the tremendous authority that is given to one person in this bill. He is the Chairman of the Staff Relations Board; he has authority to appoint a conciliator; he has the authority to appoint an adjudicator; he has the authority to set out the items in conciliation and the items in dispute before the adjudicator and a whole host of others. My instinct rebels a little at placing into the hands of one person—and it is one person, it is not a body; it is just the chairman—authority in all these fields. I know why you have it; it has to be someone other than a minister. I wondered if you might not give some consideration to appointing an officer of the board—I call them registrars in my own mind, but you can call them anything you like—to whom

the duties in relation to conciliation, arbitration and adjudication are given, with the chairman of the board having the remaining duties rather than having all of them in one person.

Dr. DAVIDSON: I confess, Mr. Chairman, that we have not given consideration to this but I think we could undertake to give consideration to it. I must say I was impressed with the discussion which took place this morning and to find, somewhat to my own surprise, that there were times when the vice-chairman was going to be sort of an onlooker at the proceedings without having the same full degree of membership in the board that the other members of the board and the chairman would have. It may be that consideration could be given to some division of labour that would take, at least in certain respects, some of the total burden of responsibility off the shoulders of the chairman. I am not suggesting in that that it should be the responsibility for naming the conciliator which should be taken off the chairman's shoulders, but there are, as Mr. Lewis has said, a host of duties assigned to the chairman and without knowing at this point which of those duties it might be possible to look at, I would say that we are quite prepared to undertake a review of the chairman's duties to see if there are any that, in our opinion, could properly be delegated to someone else.

Mr. LEWIS: Otherwise, he just will not carry out those duties. It will be some underling who will do many of the things for which he will be responsible. I think if this was to work well the person appointing the conciliator or the adjudicator should have time to give the particular situation some thought.

Dr. DAVIDSON: Could I just say one more word on this, Mr. Chairman? We have been concerned, both before and after the discussions that took place in the house, with the comments that have been made by members as to the dual role that the chairman of the board and the board itself is being asked to assume. We have not been able to find any alternative, frankly, but this has given us concern and we would like to find some way by which it could be made apparent that the load of responsibility was appropriate to the position of chairman. For that reason, I am glad to reiterate that we will take a look at this to see what, if any, possibilities there are. It seems to me, the board and the chairman, in the circumstances which we envisage for this legislation, have certain burdens that will be very onerous immediately following the passage of this legislation and that is the burden of certifying and getting the thing started. After this, there will be other kinds of responsibilities and questions which will be referred to the board as the bargaining process begins to unfold. I think it is unlikely that there will be a peak load of both of these kinds of referrals to the board at the same point in time and, therefore, I would certainly hope and I would expect that over the long pull there would be an evening out of the workload for the board even though the nature of the workload itself may change.

Mr. MACKASEY: Is the chairman bound to make this appointment, or is it at his discretion? It is this old "shall" and "may" business again.

Dr. DAVIDSON: The chairman is not bound to appoint a conciliator.

Mr. LEWIS: He may decide not to appoint one. There is a provision for what happens if he decides not to appoint either a conciliator or a conciliation board.

Mr. LOVE: The chairman would presumably do this only where he had come to the conclusion that it would serve no useful purpose. I think in that case, the

parties are then free to make use of the other mechanisms which are provided for in the dispute settlement process. Conciliation in this act is not a compulsory feature of the process as it is in many other labour relations statutes.

Clause 54 agreed to.

On clause 55—*Authority of Minister to enter into collective agreement.*

Mr. LOVE: Mr. Chairman, I should mention that we would like to suggest a change in clause 55(1). The subsection as we would like to amend it would read: "The treasury board or any person authorized on its behalf, may enter into a collective agreement." Since this subsection was drafted, we have come to the conclusion that, for administrative reasons, bearing in mind the relatively large number of bargaining units and agreements that will be involved, the treasury board might very well wish to authorize either the secretary of the board or some other officer of the board—perhaps an officer who had responsibility for negotiation in a particular unit—to actually enter into the agreement on behalf of the board.

Mr. LEWIS: Will it still require the approval of the Governor in Council?

Mr. LOVE: No, it would not. That is another change because under Bill C-182, the authority to change conditions of employment would reside in the board itself and the phrase "and with the approval of the Governor in Council" would simply generate a good deal of unnecessary paper work if it were to be retained.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. BELL (*Carleton*): How would this read then?

The JOINT CHAIRMAN (*Mr. Richard*): The treasury board or any person authorized on its behalf may enter.

Mr. MACKASEY: Authorized by whom?

Dr. DAVIDSON: If this is going to be, Mr. Chairman, a delegation by the board of authority to enter into a commitment on behalf of the board, I think it should be the board that makes the decision to delegate. I must add that we are somewhat reluctant to see the delegation of authority exercised on delegation by anyone but a minister acting on behalf of the board.

Mr. MACKASEY: The only reason I brought it up is that, although it is clear to us, if it is not mentioned who by, then someone later is going to argue whether it is by the minister or by the board.

Mr. LOVE: The minister is not mentioned any more in the clause.

Mr. LEWIS: It is the treasury board who has the authority?

Mr. LOVE: Yes, that is right.

Mr. BELL (*Carleton*): And any person authorized on his behalf. It could be any clerk. I, personally, would like to hear more argument on this subject of "any person authorized on its behalf", whether the treasury board should delegate to just anyone, we know not whom, the right to enter into a collective bargaining agreement which binds the government of Canada on pay rates and which, in effect, takes out of the control of the Parliament of Canada a great part of its budgetary arrangements. Should this go to someone who may be away down the line in the clerical staff of the treasury board?

Mr. WALKER: How low can you get?

Mr. LEWIS: Are we confusing two things, Mr. Chairman? Are we confusing the act of actually negotiating on and agreeing to the terms of a collective agreement with the procedural act of signing the collective agreement? When you say: "may enter into", are you talking about anything else than the affixing of something on behalf of the treasury board to a document which your negotiating committee has agreed to and which the treasury board has approved, because presumably you have to go to it for approval. When it has done so, then someone on its behalf may affix a signature, a seal or something. Are we confusing those two things?

Dr. DAVIDSON: The negotiation process—the sitting down across the table—is obviously going to be done, I assume, by the team of officials who are directed by the ministers to enter into and carry through the negotiating process as such. The agreement, I would think, would have been approved by the treasury board.

Mr. LEWIS: That is what is worrying Mr. Bell.

Mr. BELL (*Carleton*): No, it does not, on the proposal—somebody authorized by the treasury board to enter into an agreement. The agreement does not have to come.

Dr. DAVIDSON: I think you may have missed my comments, Mr. Bell, in which I said that insofar as I was concerned, I would be reluctant in normal circumstances to see the treasury board delegate this responsibility to anybody but a minister.

Mr. LEWIS: But what responsibilities, Dr. Davidson?

Mr. BELL (*Carleton*): The language that is proposed would make it possible to delegate this authority to anyone.

Dr. DAVIDSON: I would like to reserve judgment on the language that is, in fact, being proposed.

Mr. LEWIS: May I suggest to you, too, that if you divide it in two you will overcome the difficulty. If you give the treasury board the authority to enter into the agreement and then someone appointed by the treasury board the authority to say so on paper, then, so far as I am concerned, I do not care who it is—it could be a clerk of the treasury board. If there is a minute, I do not care who signs the blessed thing.

Mr. BELL (*Carleton*): I do not care who puts the red seal on it. This is of no significance, really, so long as the negotiation and the approval has been in proper hands.

Mr. LEWIS: The treasury board.

Mr. DAVIDSON: You are concerned about the giving of the authority to enter into an agreement, and think that should be held at ministerial level?

Mr. BELL (*Carleton*): That is right.

Dr. DAVIDSON: At the treasury board level.

Mr. BELL (*Carleton*): That I believe, certainly.

Dr. DAVIDSON: I agree. We will undertake to produce a form of words for the consideration of the Committee which will take care of that.

Clause 55 stands.

On clause 56—*Time within which agreement to be implemented.*

Mr. LEWIS: It is 10 o'clock, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Time passes very quickly.

Mr. LEWIS: We have passed quite a number of clauses.

Mr. WALKER: We were here at 10 o'clock this morning, too. Mr. Chairman, before we adjourn—I do not know whether he wants to do it—Mr. Émard has some comments—whether they are in the form of a or not, I do not know—on an earlier clause about which we were speaking. I think it might be useful to Dr. Davidson and his officials, who are considering the clause, if they had the benefit of the wording which Mr. Émard has. I would suggest, if I might, through you, that he not move the motion but table the motion so it is available for the officials to see what he has in mind on it.

The JOINT CHAIRMAN (*Mr. Richard*): Well, of course, if Mr. Émard wants to speak, he may do so.

(*Translation*)

Mr. ÉMARD: What I had to present, Mr. Chairman, was rather simple, but my friend Lachance here is translating it into legal terminology.

Mr. LACHANCE: Mr. Chairman, in the light of the discussions which took place in this committee, I believe that the officials of the department will perhaps be able to put some sort of order into it. To try and sum up a little bit the thought which Mr. Émard expressed and which I supposed, I had thought, Mr. Chairman, that clauses 32 and 34 particularly should be amended. I could read it, Mr. Chairman, and then table this document so that it will be available to the officials of the department.

The JOINT CHAIRMAN (*Mr. Richard*): This would be most useful, Mr. Lachance.

Mr. LACHANCE: Unfortunately, time did not permit me to give it all the attention which would be required, and the experience of legal officers of the department would be most useful. It reads as follows: Moved by Mr. Émard and seconded by myself. Clause 32, that sub-clause (1) be replaced by the following paragraph:

1. When one or more employee organizations have asked the Board for certification as described in Section 27, the Board shall, subject to sub-section 3 of Section 26, determine the group of employees that constitutes a unit appropriate for collective bargaining. Sub-section 2 be amended to add at the end: "and the community of interest of the group or groups".

Clause 34 would be amended to read: "Where the Board has (a) received from an employee organization an application for certification as a bargaining agent for a bargaining unit, in accordance with this Act. (b) determined what is a group or group of employees which constitute a unit appropriate for collective bargaining, in accordance with Section 32. (c) been satisfied that at least 10 per cent of the employees of a bargaining unit wish to be represented by their own bargaining agent. (d) been satisfied that the persons representing the organization or organizations included in the application have been duly authorized to act on behalf of the members of the association, insofar as regulating relationships between the employer and the members are concerned, the Board shall, subject to this Act:

- (1) certify the employee organization or organizations making the application as bargaining agent, for the employees of this bargaining unit, as part of the negotiating committee of this unit.
- (2) decide that there will only be one collective agreement and one bargaining committee for each unit.
- (3) decide that any association which represents at least 10 per cent of the employees of a given unit having common or community of interests shall be automatically certified and have a right to participate in collective bargaining”.

There is no doubt, Mr. Chairman, that there would be some sections that should be amended in relation with both these clauses, but at least this is the sense, I think, of the amendments which Mr. Émard wanted to propose and I want to second.

The JOINT CHAIRMAN (*Mr. Richard*): But you are not moving an official motion tonight? You are just presenting this for consideration of the committee, because it has not been drafted properly. We shall ask the Clerk to make copies of this for distribution to members of the Committee, so that at the next meeting, we can consider your suggestion. Perhaps, in the meantime, you might also draft your amendments in a more complete form.

(*English*)

Is it agreed?

Mr. BELL (*Carleton*): Mr. Chairman, lest silence create any illusion that there is agreement in this Committee with this proposal, I would like to say at once that I disagree with it completely and I think that the new effect of this would be to tear the Public Service of Canada into fragments. There would be total disaster for the Public Service, and I want to say it right away.

The JOINT CHAIRMAN (*Mr. Richard*): I think we will have the opportunity at a future meeting to discuss the intent of the propositions made by Mr. Lachance and Mr. Émard and also to hear the objections from other members.

Mr. LEWIS: I am not trying to put any burden on Dr. Davidson but I hope that what we discussed earlier will be done, that Dr. Davidson will seek whatever advice he requires, and if he is in a position to do so, he will give us the result of such advice. I say, if he is in a position to do so, he will give us the result of that advice.

The JOINT CHAIRMAN (*Mr. Richard*): We will meet then on Thursday morning at 10.30.

The meeting is adjourned.

APPENDIX S

ASSOCIATION OF POSTAL OFFICIALS OF CANADA

P.O. Box 772, Terminal "A"

TORONTO 1, Ontario

by N. A. Smart,

National President,

Association of Postal Officials of Canada

November 15th, 1966.

Mr. J. Richard, M.P.,
Chairman,
Joint Parliamentary Committee,
Bill C-170
Room 406,
West Building,
Parliament Buildings,
Ottawa, Ontario.

Dear Sir:

The following is a submission on Bill C-170, and Act, respecting employer and employee relations in the Public Service of Canada, to the Joint Committee of the Public Services of Canada.

We wish to extend to the Government our sincere thanks for the decision to put in force a collective bargaining system in the Public Service of Canada. We are, in fact, quite happy that at last Civil Servants will enjoy the same rights as those extended to other employees of private industries across the country.

We quite understand that it is late for our organization to come forward and submit a brief with respect to a particular point of this Bill, which in its present form would constitute the denial of the rights of a large group of Civil Servants.

Having been rejected by other Associations of the Post Office Department and, in addition, with the introduction of Bill C-170, it was realized that in order to have a voice in our future, we would have no other alternative but to form our own Association. At the general requests of Postal Officials across the country, a national body was formed on October 16th, 1966, at which date 1100 officials, representing close to 50 per cent, were members.

In Part 1, under Section 19, subsection (1) of paragraph (B), this clause grants the Commission the power to determine rules for the composition of the groups of employees able to negotiate. Under this Bill, "Unions" contained in a specific group, to be certified must control 50 per cent plus one of the members, and this entitled it to negotiate for the whole group. Under this section, our membership comprising supervisory personnel, i.e. Postal Officers 1 to Postal Officers 7, would form part of an operational group with the Postal Workers,

Letter Carriers and Railway Mail Clerks. It is evident that the Canadian Union of Postal Workers and the Union of Letter Carriers, having the largest membership, would control the whole group and thus be in a position to control the future of a group of Supervisors, who would have no voice or vote whatsoever in these proceedings. This would leave us in a position whereby supervisors would have their hands tied and would no longer be included in the management side.

In the event that this clause is adopted as written, there would be only one recourse for the Association of Postal Officials of Canada, which means they would be forced to come to an agreement with the Canadian Union of Postal Workers and the Union of Letter Carriers to form a federation in which the Postal Officials would be able to have a voice at the Collective Bargaining Table.

In this event, Postal Officials would have to follow the dictates of the more powerful Unions and they would have to accept their policy. Therefore, in the event of a strike, Postal Officials would have to accept the decisions brought forth by these employees' Unions, therefore belying the status of management to Postal Officials. This would no doubt impede the task of a Postal Official and certainly is contrary to the feeling of the Department.

While organizing, we were approached by the Postmasters of Semi-Staff Offices, Grades 1 to 6, who wished to join our organization, not being satisfied with their situation in the proposed legislation, we understand, all Revenue Postmasters 1 to 23, and Semi-Staff Postmasters 1 to 6, will be included under one group of the operational category. This is a most unsatisfactory position for Semi-Staff Postmaster 1 to 6. At the present time, there is no parallel between the two occupations and the only thing they have in common is their name.

A Revenue Postmaster is appointed by the Postmaster General and is paid out of revenue. He is *not* a Civil Servant and occupies his position at the goodwill of the Minister. He is usually the owner of a general store, or is a local merchant in a small community and holds office mainly as a public service and to complement the services rendered to the public by his store.

A Semi-Staff Postmaster is a Civil Servant appointed by the Civil Service Commission, and subject to the same rules and orders as Postal Officers (Officials). He is eligible to be promoted to a Postal Officer position and the reverse is true for Postal Officers. They are eligible for promotion to the position of Postmaster of a Semi-Staff Post Office. In being included with the Revenue Postmasters, these officials will be in a position where the conditions of their employment will be dictated, (directed), by a group of Postmasters who are completely out of their range and ambitions. Most Revenue Postmasters occupy their position as a part-time service and earn from \$100 to \$900 a year, with few having revenue over this amount.

In summing up, with all due respect to the members of the committee, it is our considered opinion that it would not be in the best interests of all concerned to have Postal Officials and Postal Workers in the same bargaining unit. We also believe Postal Officials, including Postmasters Grade 9 to 15, and Postmasters of Semi-Staff Post Offices, Grades 1 to 6, can best be represented at the bargaining table by their own representatives, who are fully cognizant with all the responsibilities entailed in their positions they perform for the Post Office Department.

Furthermore, with your permission, we reiterate that with the expansion and development of the Post Office Department, we are increasingly aware that working conditions are developing a pattern similar to outside industry, and it is imperative to suggest that Postal Officials be given the opportunity to operate as one cohesive bargaining unit, exclusive of all other groups.

Respectfully submitted for your consideration.

APPENDIX "T"

(on Clause 26)

COMMENCEMENT OF COLLECTIVE BARGAINING

DATES OF	OPERATIONAL	SCIENTIFIC PROFESSIONAL TECHNICAL	ADMIN. SUPPORT & ADMIN. & FOREIGN SERVICE
SCHEDULED PAY REVIEW	OCTOBER 1, 1966	JULY 1, 1967	OCTOBER 1, 1967
ELIGIBILITY FOR CERTIFICATION	WITHIN 60 DAYS OF ACT COMING INTO FORCE		
NOTICE TO BARGAIN	FEBRUARY 1, 1967	NOVEMBER 1, 1967	FEBRUARY 1, 1968
ELIGIBILITY TO ENTER INTO COLLECTIVE AGREEMENT	APRIL 1, 1967	JANUARY 1, 1968	APRIL 1, 1968
TERMINATION OF COLLECTIVE AGREEMENT	SEPTEMBER 30, 1968	JUNE 30, 1969	SEPTEMBER 30, 1969

APPENDIX "U"

THE CIVIL SERVICE FEDERATION OF CANADA

88 Argyle Avenue, Ottawa 4, Canada

November 18, 1966.

Mr. Jean-T. Richard, M.P.,
Joint Chairman on Employer-Employee
Relations in the Public Service of Canada,
Parliament Buildings,
Ottawa, Ontario.

Dear Mr. Richard:

At the recently concluded Founding Convention of the Public Service Alliance, the delegates approved a resolution submitted by the Customs Excise Union, with reference to provision for collective bargaining at the departmental level in matters that could be considered as being within the prerogative of the Deputy Head of the Department.

I realize that your Committee has completed its examination of witnesses and there will not be a further opportunity for any oral presentation to your Committee. I would, however, appreciate it if you would advise your Committee members of the extreme concern of our departmental organizations that they will be able to participate in the determination of working conditions at the departmental level.

The fact that this resolution was brought forward at a Founding Convention which was not established to deal with resolutions on policy, will indicate to you, I am sure, the serious concern that we have with reference to this matter.

I trust that you will advise your committee members of this submission and we would urge that a favourable consideration to this resolution be given.

Yours sincerely

C. A. Edwards,
Président.

RESOLUTION

Submitted by—Customs & Excise Component—P.S.A.C.

Departmental Bargaining

WHEREAS the Constitution of the Public Service Alliance of Canada requires that each Component shall:

“negotiate classification problems and working conditions of its members solely of concern to them within the department or departments concerned” (Section 8, subsection 5(c))

and

WHEREAS the Public Service Employment Act will permit delegation of certain authority to departments,

and

WHEREAS delegation of classification to the departments has already been implemented,

and

WHEREAS Bill C170 would exclude specific subjects from the bargaining process; would not provide for bargaining at the departmental level and would preclude bargaining by a Component unless the P.S.A.C. held the majority necessary for certification in the bargaining unit or units in which the Component's membership were placed.

THEREFORE BE IT RESOLVED that the P.S.A.C. make a further presentation to the Parliamentary Committee dealing with Bill C170 strongly urging amendment to that Bill to Provide:

- (a) Bargaining on all subjects affecting conditions of employment of Government employees,
- (b) Bargaining at the departmental level on any subject on which the final authority is delegated to a department or departments;
- (c) The granting of certification for purposes of departmental bargaining to the organization having a majority of 50 per cent + 1 of the employees of a department.

**OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE**

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 20

THURSDAY, NOVEMBER 24, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

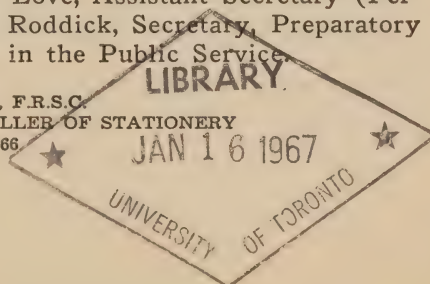
BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board*; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966.



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard
and

Representing the Senate

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Knowles,

Mr. Lachance,
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
¹Mr. Patterson,
Mr. Rochon,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

¹ Replaced Mr. Leboe on November 24, 1966.

Edouard Thomas,
Clerk of the Committee.

CORRIGENDA:

Issue No. 6, June 28 and 30, 1966:

For "Third" Report to the Senate on frontispiece and page 193
read "Second".

For "Fourth" Report to the Senate on page 194 read "Third".

ORDER OF REFERENCE

THURSDAY, November 24, 1966.

Ordered,—That the name of Mr. Patterson be substituted for that of Mr. Leboe on the Special Joint Committee on the Public Service.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, November 24, 1966.

(37)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.46 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (Carleton), Émard, Hymmen, Knowles, Lachance, Lewis, Madill, McCleave, Orange, Richard, Tardif, Walker (12).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered Bill C-170 as follows: Clause 56, carried on division; Clause 57, stand; Clause 58, stand; Clause 59, carried; Sub-clause 60(1), carried; Sub-clause 60(2), stand; Sub-clauses 60(3) to (8) inclusive, carried; Clause 61, carried; Clause 62, carried; Paragraph 63(1) (a), stand; Paragraph 63(1) (b) and Sub-clause 63(2), carried; Clause 64, stand; Clause 65, carried; Clause 66, carried; Clause 67, carried; Clause 68, carried as amended (see motion below); Clause 69, carried; Clause 70, carried as amended (see motion below); Sub-clause 71(1), carried; Sub-clause 71(2), stand; Sub-clause 71(3), carried; Clause 72, stand; Clause 73, stand; Clause, 74, carried; Clause 75, stand; Clause 76, carried; Clause 77, carried; Sub-clause 78(1), carried; Sub-clause 78(2), stand; Sub-clause 79(1), carried; Sub-clause 79(2), stand; Sub-clause 79(3), carried; Sub-clause 79(4), carried; Sub-clause 79(5), stand; Clause 80, carried; Clause 81, carried; Clause 82, carried.

Mr. Émard raised a question of privilege concerning a newspaper article.

Moved by Mr. Lewis, seconded by Mr. Knowles,

Agreed,—That the words “and have regard to” line 20 Clause 68 page 32 be deleted.

Moved by Mr. Lewis, seconded by Mr. Knowles,

Agreed,—That the words after the word “made” lines 30 to 32 inclusive Sub-clause 70(4) page 33 be deleted.

At 12.50 p.m., the meeting was adjourned to 9.30 a.m. Friday, November 25th.

Édouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 24, 1966.

The JOINT CHAIRMAN (Mr. Richard): The meeting will come to order.

On Bill No. C-170 we had reached clause 56. Dr. Davidson.

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): May I ask, Mr. Chairman, that Mr. Love continue with this and with the first part of the next block?

On clause 56—*Time within which agreement to be implemented.*

Mr. LOVE (*Assistant Secretary (Personnel) Treasury Board*): Mr. Chairman, as I understand it, we had completed the review of clause 55, and are to begin this morning with clause 56, which is a provision indicating the period within which action must be taken to implement the provisions of a collective agreement. It says, in effect, that, if the parties have not specified the period in the agreement, then implementation must be within 90 days from the date of execution of the agreement, or within such longer period as may, on application by either party to the agreement, may appear reasonable to the Board.

The second subclause of clause 56 places a limitation on the subject-matter of collective agreements designed to ensure that no collective agreement really lies outside the scope of authority of the employer as represented by the Treasury Board, or a separate employer.

The JOINT CHAIRMAN (Mr. Richard): Are there any comments on clause 56?

Mr. LEWIS: When do you visualize that an agreement would not say within what period it was to be implemented? I am not objecting, I just want to understand what is the intent.

Mr. LOVE: I think this really arose in the beginning, Mr. Chairman, as a result of some concern on the part of employee organizations about the possible effects of what might be described as bureaucratic delay in a large-scale organization. We are not talking here about the term of the agreement or about the—

Mr. LEWIS: You are building in retroactivity in a sense, are you?

Mr. LOVE: If in the agreement there is a change in the conditions of service governing payment for overtime, for example, the employer must then take certain actions to carry out the obligations that he has entered into, and the actions must be taken within such period as may be specified in the agreement or, failing specification within 90 days—unless the employer could go to the board and say “We have some terrible problems of communication”—let us suppose, in the Arctic, or overseas, and it is going to take a somewhat longer period to get these new provisions into effect.

Mr. BELL (*Carleton*): Is subclause (2) really necessary? Surely this is in effect in any event, and is there any evil in the employer undertaking to make recommendations to Parliament? They cannot, of course, bind Parliament, but they could undertake to ask Treasury Board or the separate employer to make a recommendation to Parliament for enactment of legislation.

Mr. LOVE: Mr. Chairman, there may be a fine point of constitutional law involved in this one, and I am not much of an expert on that. The problem is that the employer is either the Treasury Board, in the case of the central administration, or a separate employer, such as the National Research Council, and, in constitutional law, neither of these bodies is in a position to propose changes in statute law to Parliament. A distinction for this purpose I think has to be made between the Treasury Board and the Government-as-government.

An hon. MEMBER: The governor in council.

Mr. LOVE: That is right.

Mr. LEWIS: I suppose that what could happen is that the Treasury Board and the employee organization might agree that some amendment would be desirable and perhaps send that recommendation on, but it cannot form a part of the obligations undertaken under the collective agreement.

Mr. LOVE: That is right.

Mr. LEWIS: That is really what you are saying.

Mr. LOVE: Because the employer is really not in a position to carry out that kind of an obligation.

Mr. BELL (*Carleton*): But does not the very exception that you put in subclause (a) defeat the argument you have made. It is not the Treasury Board that goes to Parliament; it is the governor in council. In fact, under the British North America Act it is His Excellency the Governor General who makes the recommendation to parliament. You have put in an exception, and I think you defeat your argument by putting in the exception.

There is no basic difference between recommending to parliament an appropriation bill and recommending an amendment to the public service act.

Mr. LOVE: Well Mr. Chairman, I would have to say that, on the basis of my limited knowledge, this would appear to be a good point, that there is probably no difference in these two actions in constitutional terms; but our legal advisers have indicated to us that the Treasury Board, as the signatory to an agreement, is in no position to bind the Government, to propose a change in statute law. I think this is the basic problem we face here.

Senator MACKENZIE: Does this make any particular difference except that it may be redundant?

Dr. DAVIDSON: Could I but mention one additional point, Mr. Chairman? The provisions of statute law, except in so far as the money requirements are concerned—the ones that one thinks of, certainly—are service-wide types of legislation. I must say that I would find a good deal of difficulty in seeing how the separate employer could meaningfully enter into a collective agreement under the terms of which they would undertake to seek a particular amendment, let us say, to the Public Service Superannuation Act, or to any other service-wide statutory legislation, and have that undertaking give rise to any meaning-

ful result, unless it happened to represent what all of the other units in the collective bargaining machinery also felt was desirable from their point of view. You could arrive at a situation where, for example, the National Research Council as a separate employer, or even the Treasury Board in its various negotiations with a number of separate bargaining units, would be asked to enter into a commitment that it would make different kinds of amendments which were mutually incompatible within the same piece of legislation.

Although one could take refuge behind the argument that all that this meant was that the Treasury Board would use its good offices to seek this amendment, I think it would lead to a great deal of disillusionment if the collective agreements began to include pledges to seek amendments to legislation that could not, in fact, be lived up to by the employers' representatives who signed the agreement.

Quite apart from the constitutional question, which I do submit is one that parliamentarians should consider, it does seem to me that there are very practical difficulties that would arise from the Treasury Board having to bargain about statutory matters with some 60 separate bargaining units, and from separate employers bargaining with an additional number of bargaining units. The difficulty would arise from any regime of collective bargaining that would make it possible to enshrine in separate collective agreements commitments to seek changes in legislation that might be mutually inconsistent with the other one. This, to my mind, is a compelling argument for including in the law some provision along the lines set out in the draft Bill.

Mr. BELL (*Carleton*): Why would you assume that the Treasury Board, as the employer, would enter into agreements which were mutually inconsistent?

Mr. LEWIS: Let me put it differently. Your explanation makes the clause a little less desirable, it seems to me, Dr. Davidson. I am grateful to you for making it. Then let me put the question that Mr. Bell put to you a little differently. What you have presented was a very good argument for not agreeing to a certain demand, but not a very good argument for putting in the act a clause which limits the area of negotiation. You can present that and say, for this reason I cannot accept your demand.

Dr. DAVIDSON: And then this goes to arbitration.

Mr. LEWIS: And the arbitrator, if your reason is valid, will agree with you; but it is hardly a reason for putting in a clause which limits the area of negotiation.

Dr. DAVIDSON: If the arbitrator renders a decision which, in legislative terms, is inconsistent with a decision respecting the same piece of legislation that is rendered by another arbitrator, where does this leave the employer, who has an obligation to seek amendments from Parliament?

Mr. LEWIS: Surely the arbitrator cannot render a decision which says that you must do so and so when in fact the law does not provide for it. The only kind of decision he can render is that you should try to change the law.

Dr. DAVIDSON: But that is binding on the employer? Is that right?

Mr. LEWIS: To try.

Dr. DAVIDSON: To try to amend the law in the sense that that arbitrator has specified; is that right?

Mr. LEWIS: That is right; and then you have two conflicting arbitral awards.

Dr. DAVIDSON: For both of which the employer is bound to seek the approval of Parliament.

Mr. LEWIS: Well, obviously, he cannot. I do not see the difficulty. He just cannot do two conflicting things. You have gone through the negotiations and when you come back you tell them you could not do it.

Dr. DAVIDSON: Well, Mr. Chairman, that, I must say, is a strange way of expecting the employer to honour the terms of an arbitration agreement.

Mr. LEWIS: That is done every day.

Dr. DAVIDSON: This is an excellent illustration to my mind, of the point that I am concerned about.

Mr. KNOWLES: But, Dr. Davidson, are you not in danger of being in that position with respect to the exception that is contained in this clause? By the exception, you say that the employer is bound to try to get through parliament an appropriation bill to cover moneys required for an agreement.

Dr. DAVIDSON: That is right.

Mr. KNOWLES: All right; supposing you have two conflicting arbitral awards in terms of money only. According to this legislation, Treasury Board is obligated to try to get both of them through.

Dr. DAVIDSON: That is correct; but the subject matter here of the arbitral award is not enshrined in legislation which parliament is being asked to change. It is quite possible that you could have one bargaining unit asking for one overtime rate for its employees and a second bargaining unit asking for a different overtime rate for its employees. It is conceivable—and I would hope that we would not find ourselves in this position—that the Treasury Board as employer, or the separate employer and the Treasury Board in two separate situations, might find themselves obliged to agree to these separate monetary rates of compensation for overtime; and the Treasury Board, under those circumstances, if the collective bargaining agreements so provided, would be under an obligation to seek from parliament the appropriations that would be necessary to honour those financial commitments. But this is, in my judgment, quite a different thing from entering into inconsistent commitments with respect to legislation that is on the statute books, that would require the Treasury Board either to repudiate both of its commitments or to ask Parliament to do two mutually inconsistent things in the way of changes of the legislation that Parliament has already approved.

Mr. LEWIS: You sound as if it never happened.

Dr. DAVIDSON: I have still much greater faith than you have, Mr. Lewis. Clause 56 agreed to.

An hon. MEMBER: On division.

The JOINT CHAIRMAN (Mr. Richard): Clause 57.

On clause 57—*When agreement effective.*

Mr. LOVE: Mr. Chairman, subclauses (3) and (4) of this clause would have to be deleted under the terms of the proposal made with respect to clause 26. They really provide for the term of agreement entered into during the initial

certification period, and these are now to be dealt with under the proposal relating to clause 26 in a schedule to the bill; so that on subclauses (3) and (4) the Committee would presumably want to reserve its position, at least until it has dealt with the proposal relating to clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments to make on subclauses (1), (2) and (5) at the present time?

Mr. LOVE: It is possible, also, that a minor change in (2) would be required, relating to the period of initial certification.

Mr. BELL (*Carleton*): Well, (2) is subject to subsection (3) and (5) is a *non obstante* clause.

Clause 57 stands.

On clause 58—*Binding effect of agreement*.

The JOINT CHAIRMAN (*Mr. Richard*): There is a change there too, is there not?

Mr. LOVE: Yes, that is right, Mr. Chairman. This one, I think, should be left open because there was a suggestion that the Committee might consider a change that would make the collective agreement binding, not only on the bargaining agent but, in the case of a council that is the bargaining agent, on the constituent organizations of the council.

Clause 58 stands.

The JOINT CHAIRMAN (*Mr. Richard*): We now come to clauses 59 to 89 and 101 to 105.

On clause 59—*Provisions of Act applicable depending on process for resolution of dispute*.

Mr. LOVE: Mr. Chairman, I would like to make the following opening statement relating to this block of clauses relating to the dispute settlement processes.

These sections describe the dispute settlement processes provided in the bill, that is, a process based on binding arbitration, or one based on resort to a conciliation board and the right to strike in defined circumstances.

Where the parties are unable to reach agreement on any term or condition of employment that may be embodied in a collective agreement either the bargaining agent or the employer may invoke the dispute settlement process applicable to the bargaining unit concerned.

If binding arbitration is the process then the matters in question will be referred by the chairman of the board to the arbitration tribunal. If the conciliation board process is applicable then the chairman will refer the disputed matters to a conciliation board.

The arbitration tribunal envisaged by the bill is modelled on the U.K. Civil Service Arbitration Tribunal. It is to consist of a chairman and two panels of other members, each panel to consist of at least three persons appointed as being representative of the interests of the employers or employees. In respect of a particular dispute the tribunal is to consist of a chairman and two other members, one drawn from each of the two panels.

Provisions relating to conciliation boards follow the pattern of the I.R.D.I. Act. Each board is to be composed of nominees selected by the parties and a chairman selected jointly by them. Its task is to endeavour to bring about agreement and, failing that, to report findings and recommendations.

Conciliation board recommendations are not binding on the parties. The right to strike applies only to employees in bargaining units governed by the conciliation board process and only to those employees in the bargaining unit who have not been designated as employees performing duties necessary to the safety and security of the public.

A strike may only occur where there is no agreement in force and the requirements of the conciliation board process have been met. A strike is prohibited in all other circumstances.

The safety and security of the public would be safeguarded by provisions specifying that no board may be established and, therefore, no legal strike may occur, until the parties have agreed upon, or the Public Service Staff Relations Board has determined, the employees or classes of employees performing duties necessary to the safety and security of the public.

Clause 59 agreed to.

On clause 60—*Public Service Arbitration Tribunal established.*

Mr. WALKER: I have one small point, Mr. Chairman, on subclause (2). Somebody may "be removed by the Governor in Council on the unanimous recommendation of the Board". When you use the word "unanimous" are you speaking about the full complement of the Board?

Mr. LOVE: Yes, sir; I would think so.

Mr. WALKER: Or the quorum of the board?

Mr. LOVE: Well, I think it would have to be the unanimous recommendation of the full board in this case, the way it is worded.

An hon. MEMBER: That would include the vote, would it not, of the man who is fired?

Dr. DAVIDSON: No; this is the Staff Relations Board.

Mr. LOVE: That is right.

Mr. WALKER: I am thinking of the case where one of the chairmen of the arbitration tribunals may, for cause, be removed by the unanimous decision of the board. It is this word "unanimous" that bothers me. I think that if the man had to be removed it might take two years to get a unanimous recommendation of the Board, because there are other provisions here in connection with the composition of the Board such as that when people are sick somebody else can carry on, and all the rest of it; we have made provision for absent members of boards so that business will carry on, but in this particular instance, you have to have apparently 100 per cent of the membership, no matter whether they are—

Mr. LEWIS: I suppose it is the only way to safeguard the interests on the board—

Mr. LOVE: That is right.

Mr. LEWIS: —to make sure that both interests, or all the interests, on the board are agreed. That is the reason for the unanimity, I suppose.

Mr. LOVE: Yes; I think the intention here is that the chairman of the arbitration tribunal—because of the character of his position, which is likely to be a tough one—should have a very considerable security of tenure during his period of appointment, and that it should not be easy to remove him.

Mr. RODDICK: Mr. Chairman, it seems to me that there is two possible interpretations of what is said here, and I think these need to be identified. If there is a question about what is intended and the working it should be further explored.

As I would read it and this is only a personal view this relates to a decision made by the board, and where the board has the capacity to sit and make a decision and that decision is unanimous then that would be the circumstance referred to here. If it were desired that every member of the board should agree before this removal were made, it would be my impression that this would have to be phrased somewhat differently.

Mr. LOVE: That is right.

Mr. KNOWLES: That the board in order to sit and pass has to have its chairman or vice-chairman present and an equal number of spokesmen for the other two interests.

Mr. LOVE: That is right.

Mr. KNOWLES: And in that circumstance, as Mr. Roddick has just said it is on arriving at a unanimous decision at that point that it speaks?

Mr. LOVE: That is right.

Mr. WALKER: But it does not talk about a unanimous decision. It seems to me that it is a rather informal arrangement. It talks about a unanimous recommendation. I am not trying to play with words here. I just see the necessity, at the outset, to be very clear on this, so that if such circumstances arise there is no question about the interpretation of the provision for the removal of such a person.

Mr. LOVE: I think my colleagues at the witness table have concluded that we would be wise to look at this to make sure that we are talking either about the board as a whole or about a division of the board, because there is provision for the board to break down into divisions for particular purposes. We would like to check with the legal draftsmen to get the clear intent of the clause.

Dr. Davidson says that we would also like at this point to get some reaction from the Committee on what its view would be, whether the requirements should relate to the board as a whole, or whether it would be satisfactory to limit it to a division of the board. A division of the board consists of the chairman or vice-chairman and an equal number of the members of the board from each side.

Mr. KNOWLES: Mr. Chairman, if I could just identify what appears to me to be one other alternative, it might include all ordinary members of the board and the chairman or vice-chairman. I was a little concerned about the role of the chairman and vice chairman and, therefore, to respond to Mr. Love's question, you would have to ask yourself whether you want both the chairman and the vice chairman to be included on this matter.

Mr. BELL (*Carleton*): To me there is sufficient safeguard if it is a unanimous decision of the board which I take to be the chairman or the vice chairman and an equal number of representatives of the two parties. They make a unanimous recommendation, and then there is the additional safeguard of the governor in council. My own view is that that is sufficient.

Mr. KNOWLES: My only comment is that you should make it precise. If we argue about it here what would the poor board do? I made the point just a moment ago, but I will make it again, that we have many rules in the House of Commons where the phrase "unanimous consent" appears, and we do not have to wait until all 265 members are there.

Mr. BELL (*Carleton*): We had unanimous consent on division the other night.

Mr. KNOWLES: That was ingenuity on the part of your party, Mr. Bell.

Mr. BELL (*Carleton*): I agree.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 60?

Mr. BELL (*Carleton*): There is another matter I would like to raise. We had a considerable number of representations in the briefs to the effect that where you have a tripartite tribunal, such as you have here, the right of the selection of the employer-employee representatives should be vested in the parties, rather than in the governor in council as in the section.

I assume that perhaps the reason no effect is given to those representations is the fact that it would be very difficult to get the very numerous employee representations together and to agree upon a designation or recommendation of a representative.

Mr. LEWIS: Not the governor in council, but the board.

Mr. BELL (*Carleton*): I am sorry, yes; the board.

Mr. LEWIS: The governor in council appoints a chairman; the board appoints the others.

Mr. BELL (*Carleton*): Yes, I am sorry.

Mr. LOVE: I think that is right. Your suggestion, Mr. Bell, is, I think, the basic reason for this. It is assumed that the board, as constituted, is representative of the interest of both sides and should be in a position to make an impartial decision on matters of this kind.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand subclause (2) of clause 60. The other subclauses are agreed to.

Subclauses 1, 3, 4, 5, 6, 7, and 8 of clause 60 agreed to.

Subclause 2 of clause 60 stands.

On clause 61—*Qualifications for membership*.

Mr. BELL (*Carleton*): I had some objections to this clause, but I confess I do not remember what they are at this moment.

Mr. LEWIS: I think there was an objection to the original clause 13; in other words, the question of whether an employee can become a member, etc.

Mr. LOVE: Mr. Chairman, my record indicates that clause 13 was agreed to, although I am not sure about that. There was something to be checked in the French text.

Clauses 61 and 62 agreed to.

On clause 63—*Request for arbitration*

Mr. LOVE: Mr. Chairman, I would like to draw attention to the fact that, in view of the discussion in Committee relating to clause 52—and members may recall that this clause refers to the termination of the negotiating relationship—it is entirely likely that suggestions will be made for changes in the clause, or for changes affecting the clause. If the suggestions are accepted, they will probably call for a consequential change in clause 63 (1) (a), which also refers to the negotiating relationship being terminated.

I think I will have reason to make a similar comment with respect to a number of clauses in this block, because a number of clauses do refer back to the wording in clause 52.

The JOINT CHAIRMAN (*Mr. Richard*): Would you indicate which ones, as you go along?

Mr. LOVE: Yes.

Mr. BELL (*Carleton*): The Professional Institute raised the question of the relevance of the words "good faith" in line 34 on page 30.

Who is to determine whether the parties have been bargaining collectively in good faith, and what happens if there has not been bargaining collectively in good faith?

Mr. LOVE: Mr. Chairman, about the relevance of these words I would have to say that it is almost an article of faith, among people who are responsible for labour legislation, to refer to this phrase in a wide variety of circumstances. It is important, I think, that this legislation should reflect this practice.

Mr. KNOWLES: That is there so that each side can claim that the other did not do it.

Senator CAMERON: Mr. Chairman, I think Mr. Bell's point was very well taken. I do not know very much about labour relations negotiations, but I have an underline on those two words, too. Who does determine?

Mr. LOVE: Mr. Chairman, if anyone had any responsibility in this respect, it would be the chairman of the board, because it is the chairman of the board to whom a request for arbitration is submitted. If it were his view that the conditions as stated in the law had not been complied with, then I assume that he would be under no obligation to forward the request for arbitration to the tribunal.

Mr. BELL (*Carleton*): Then what happens?

Mr. LEWIS: They would tell them to go back and bargain some more, in good faith.

Mr. RODDICK: Mr. Chairman, I think the answer to Mr. Bell's question is that the chairman is placed under an obligation to forward these. If it is alleged that he has not complied with this obligation, that allegation would be made to the board as a board and then the board would, in effect, have to make a judgment,

in the first instance at least, whether or not the chairman had complied with his obligations under the act; and the whole problem of the interpretation of the law and whose responsibility it is would then, I think, be on the table.

Mr. BELL (*Carleton*): I think the words are just window-dressing.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 63 carry, subject to subclause (1) (a)?

Mr. LEWIS: I am trying to understand the difference between (a) and (b). Is this what you are really saying, that if no agreement is reached, and the whole package is in dispute, as it were, (a) applies, and at any time prior to reaching an agreement they can ask for arbitration. But if they reach an agreement on most issues and some issues are still left in dispute, and they want to go to arbitration only on those left in dispute, then they must do so within 7 days of the date on which agreement is reached?

Mr. LOVE: That is correct, sir.

Mr. LEWIS: Before an agreement is reached at any time, they can ask for arbitration?

Mr. LOVE: Yes.

Mr. LEWIS: If an agreement is reached within 7 days on the outstanding issues?

Dr. DAVIDSON: The bill contemplates that a request for arbitration be made in respect of all terms and conditions of employment that have been on the table, so to speak, or the parties could enter into an agreement with respect to most of them and refer only a small number to the tribunal.

Mr. LEWIS: That is the difference between (a) and (b). Therefore (a) could simply have said—and I am not trying to word it—“at any time before an agreement is reached”. That is what it really refers to.

Dr. DAVIDSON: If the parties reach a deadlock and an agreement has not been reached.

Mr. LEWIS: If an agreement has not been reached then one of them can say “I want arbitration”.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, could I have authorization to speak on a question of personal privilege?

The JOINT CHAIRMAN (*Mr. Richard*): After we have gone through Clause 63. No, I am not finished.

(*English*)

Subclauses (1) (b) and (2) of clause 63 agreed to.

Subclause (1)(a) of Clause 63 stands.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Émard.

Mr. ÉMARD: Mr. Chairman, I was extremely surprised to see an English-language newspaper attribute motives to me that I never had, relative to the amendment that I presented at Tuesday's sitting of the Public Service Com-

mittee and I wonder whether this opinion, as expressed in the Press, is shared by members of this Committee. Therefore, to avoid any misunderstanding, I should like to make a clarification.

I want to say that I am neither a nationalist nor a separatist. At the present time, I am an antiseparatist, at least so far I have been.

There are a great many French-Canadians who have lived side by side with English-Canadians from one end of the country to another. Of course, I understand that some English-Canadians do not like French-Canadians and vice versa, but that is a minority. I do not think we should be accused of nationalism, if we expose certain problems.

In the amendment that I presented, they wanted to see an intervention to propagate trade unionism on the basis of language and nationality, whereas I believe on the contrary, that I was extremely prudent in the wording to avoid this aspect. However, we cannot deny that organization on a national basis does create certain problems, and it is not by avoiding speaking of them, that we will be able to solve them. I think that we should establish a dialogue and try to find solutions to the problems which face us. In the past we often avoided discussing a thorny problem, because we feared displeasing someone but instead of solving problems, they were aggravated. I do not claim that the amendment I presented offers the best solutions. But allow me to point out, however, that even if each of us recognizes the existence of this particular problem, no one has proposed any solution to it. I would like to see that English-speaking Canadians stop thinking that when a French-Canadian raises a problem which is his own particular problem, he is automatically a separatist and wants to break up Confederation.

I am proud to say that I have no racial prejudices. For ten consecutive years, I was the President of an Association with 10,000 employees throughout Canada, and members in the Provinces of Quebec and Ontario. The majority of the members I represented were English-speaking, and I must say that personally, I feel completely at ease in Vancouver as well as in Montreal.

The problems which confront us, however, are of a labour or trade union aspect as well as economic and cultural, and I am convinced that if each of us wants to take the trouble to adopt a frank and honest attitude, we will find a just and fair solution to all. That is all I wanted to say.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, do you have the newspaper article in question, and could you identify it?

Mr. ÉMARD: It was an article which appeared in the *Ottawa Journal*, yesterday, I think.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any comments from other members?

(*English*)

Mr. LEWIS: Mr. Émard objects to the fact that they did not say he was not a nationalist yet.

Mr. ÉMARD: No, I am still anti-separatist, and it will take a lot to change my mind.

Some hon. MEMBERS: Hear, hear.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Walker?

Mr. WALKER: Mr. Chairman, I would like to say that certainly I would not want any inference to come from Mr. Émard's question of privilege to the effect that this Committee—in my own case I have not read the article—in any way goes along with the suggestion that apparently was contained in the article. Mr. Émard's very considerable talents have been of great assistance to the Committee. All politicians are subject to this sort of thing from time to time, and we sympathize completely with whatever of his feelings were ruffled by this article.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, I think when I said the few words, "A bon entendeur, salut." that is a proper expression. There is not a good translation for that.

On clause 64—*Request for arbitration by other party*.

Mr. LOVE: Mr. Chairman, once again there is reference in subclause (1) to the phrase relating to the termination of the negotiating relationship and, since a change in the substantive clause relating to this is now being considered I would suggest that the Committee might stand this.

Clause 64 stands.

Clause 65 agreed to.

On clause 66—*Selection of members to hear and determine matter in dispute*

Mr. LOVE: Mr. Chairman, perhaps at this point I should indicate the nature of the change that is being considered. This relates to clause 52.

We now think it might be possible to delete, in effect, clause 52. This would probably involve, as far as we know now, the addition of a new clause following clause 65.

I might say here that the basic concept on which these provisions of the bill is based is that, once a dispute has moved into the arbitral area, we must provide in the bill that at the time an arbitral award is rendered all of the matters that are subject to arbitration which have been in discussion between the parties, should be dealt with for the period of the agreement or the arbitral award.

This means, in effect, that if a collective agreement has not been reached at the time an application for arbitration goes forward, there are two possibilities. One is that the parties might, after the application for arbitration has gone forward, still reach an agreement on the outstanding issues. The second is that the arbitration tribunal might make an award, at which time the collective agreement plus the arbitral award, or the arbitral award if that is all there was, would be in effect for the period of the agreement or the award.

The proposed new clause following clause 65 would be designed simply to make it clear that the parties would still be free to enter into an agreement after an application for arbitration had been made.

Dr. Davidson wants me to be even clearer. The parties would still be free to enter into an agreement after the application for arbitration had been made but before the arbitral award had been rendered. The main point here is that, once the arbitral award was rendered, the process would be ended for that particular negotiation.

Mr. LEWIS: That is subject to a provision somewhere that the parties can mutually make changes except for the term of the agreement.

Mr. LOVE: This is right.

The JOINT CHAIRMAN (*Mr. Richard*): That makes good sense. Clause 66 will stand, then.

Mr. LOVE: Mr. Chairman, clause 66 is all right, I think. Between clauses 65 and 66 there will be a proposed new clause.

Mr. LEWIS: Clause 65 will still apply? You will be changing the numbers. Let us just keep in mind that there will be re-numbering.

Mr. BELL (*Carleton*): There may be a fair amount of re-numbering.

Clause 66 agreed to.

On clause 67—*Matters constituting terms of reference.*

Mr. LOVE: Mr. Chairman, at this point in time both the parties to the dispute have had an opportunity to submit to the chairman their proposals for the terms of reference of the arbitration tribunal. This clause would simply provide for these matters to be put before the arbitration tribunal.

Mr. LEWIS: I think I follow this, Mr. Chairman, but to summarize it for my own sake, in clause 63 the party asking for arbitration sets out in the notice the matters it considers outstanding. In clause 64 that notice is sent to the other party, and the other party may add matters which, in its opinion, should go to arbitration, and thus the package goes to arbitration.

The only question in my mind is whether the words

together with any other matter that the Arbitration Tribunal considers necessarily incidental to the resolution of the matters in dispute... are wide enough to give the arbitrator the opportunity of sawing-off things one against another. I suppose it is.

Mr. LOVE: The assumption here, I think, is that, if there were no flexibility at all, the precise wording of the terms of reference as forwarded to the tribunal might almost have the effect of requiring the tribunal to come down with an award that created a nonsense of some kind. These words, as I understand them, are designed to make it possible for that nonsense to be avoided.

Clause 67 agreed to.

On clause 68—*Factors to be taken into account by Arbitration Tribunal.*

(*Translation*)

Mr. ÉMARD: On 68, could I have an explanation as to what A, B, C, and D, mean, and then in E, I think it sums up everything specified in A, B, C, D: "any other factor that to him appears to be relevant to the matter in dispute." Why then, detail A, B, C, and D?

(*English*)

Mr. LOVE: I think the drafters of the legislation felt that because, in the past, parliament has provided guidance to the pay determination authorities on the types of matters that are referred to in subclauses (a), (b), (c) and (d), parliament would now wish to provide the same kind of guidance at a time when, for the first time, provision is being made for binding arbitration.

I do not think that the language of the clause is such as to be restrictive on the tribunal, and certainly that is not the intent. I think the effect of subclause (e) is to make it quite clear that these matters are not restrictive.

Mr. LEWIS: Do you really need the clause at all?

Mr. LOVE: I think this is a matter for the Committee to decide. As I say, there are clear-cut precedents of this kind in the previous statutes relating particularly to the determination of pay in the public service. There was a clause of this kind in the 1961 version of the Civil Service Act, which imposed upon the Civil Service Commission an obligation to consider matters of this kind before making a recommendation to the government.

In view of the fact that the language of the clause is not such as to place any real restrictions on the tribunal, I think our view would be that the clause can do no particular harm, and may be of some value as an indication by parliament of the types of considerations that it would consider legitimate.

Mr. LEWIS: You have a permanent arbitration tribunal. I am not necessarily arguing against this clause, but it is another example of dotting every "i" and crossing every "t" in this legislation, which I am not sure is a fortunate approach. Is not the arbitration tribunal, which is a permanent one, the body to develop, as it goes along, criteria for determination of disputes? I have no objection personally, as far as I can understand the criteria set out here, to the way in which they are phrased; they are pretty normal criteria in collective bargaining; but I feel just a little unhappy about all of us around this table, who will not be involved in the actual disputes, setting down the criteria, and asking other members of parliament to do so. Why can we not leave it to the arbitration tribunal to develop criteria for consideration of these matters, and in decision after decision they will indicate the criteria that govern the government.

Mr. KNOWLES: Is it not already there in clause 67, that the tribunal shall consider the matters in dispute, of course; but then:

...together with any other matter that the Arbitration Tribunal considers necessarily incidental to the resolution of the matters in dispute...

Mr. LOVE: Mr. Chairman, I do not think that is intended to deal with this. This is the situation in which the terms of reference, as put forward by the parties, specify certain terms and conditions of employment that the parties wish to have changed and, because of an oversight, let us say, in the drafting of the proposals put before the arbitration tribunal, a strict adherence to the matters set forward would put the arbitration tribunal in the position of having to make an award that really would not make much sense. I really do not think that clause 67 is designed to set forth in any way the types of considerations that the tribunal should take into account in dealing with the matters put before it.

Mr. BELL (*Carleton*): Mr. Chairman, while I certainly believe that we should do everything to simplify the bill, it seems to me that there can be no objection whatever to each one of the criteria set forth here, and there is advantage, at least in the early stages, of cataloguing the things that ought to come forward. It seems to me that this is actually helpful in the development of the jurisprudence that the tribunals will have.

Dr. DAVIDSON: Mr. Chairman, I was going to make the same point Mr. Bell has made, that at least for the period of time that is required to establish some

degree of continuity between the old regime and the new regime, it seems to me that there is justification for providing some broad and general philosophical guidelines, if you like, as to the general direction in which we would expect the arbitration tribunal to move. We gave a great deal of thought to this in the preparatory committee and we found ourselves recoiling from any attempt to prescribe detailed and rigid directives for the arbitration tribunal to follow. But we did feel that it would be rather unwise to set this new regime in motion to establish an arbitration tribunal that initially, for understandable reasons, will not be as familiar with the complex of relationships within the public service as it will after a few years and for parliament to give it no guidelines, no signposts whatever, by which it should endeavour to exercise its arbitral function. It was this consideration—that a complete vacuum would really be an abdication of parliament's responsibility—that prompted us to attempt gingerly the kinds of proposals that we have set out in section 68 as guidelines for the arbitral tribunal.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, under B, we speak of other variations, geographical, industrial variations. Do we mean by this difference in wages?

(*English*)

Mr. LOVE: I think that would be included, Mr. Chairman. Certainly, in my experience over the last year in the consultative process, I have found that both the representatives of employees and the representatives of the employer have had occasion to put forward arguments based on all of the matters set out in (a) to (d). As I say, there is nothing restrictive about this. If (a) to (d) were to have any effect at all, other than general guidance, they would simply mean that if one side or the other wanted to advance an argument that fell within their terms, it could not be told by the arbitration tribunal that it was putting forward an argument that was irrelevant. I think that is the sole effect, really, of the section.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: What scares me a little bit, is that at least twice I have seen "geographic considerations". I would have thought that the object of bill C-170, by having national units, would have been for wages to be equal from one end of Canada to the other.

(*English*)

Mr. LOVE: Mr. Chairman, the bill will, among other things, cover large groups of employees who are at the moment governed, not by national rates of pay, but by locality-oriented rates of pay. I am referring to the large group of employees who are governed by the prevailing rates general regulations. I do not think we can assume that bargaining in these national units will necessarily always proceed on the assumption of national rates.

Mr. LEWIS: Mr. Chairman, I think on the whole I would like to see the words "and have regard to" deleted. If they do not mean more than "consider"

then they are redundant. If they mean more than the word "consider" then they are too binding.

Mr. ÉMARD: Where is that?

(Translation)

Mr. LEWIS: I don't know what the French translation is, of—

(English)

"And have regard to,"

(Translation)

The French version. What are the words in the French translation?

The JOINT CHAIRMAN (Mr. Richard): "Considérer et apprécier".

(English)

Mr. BELL (Carleton): The old Civil Service Act used the phrase "take into account."

Mr. LEWIS: Well, I think "shall consider" is enough. Let us take the words "and have regard to" out. If they mean the same thing or if they mean more than that I do not think they are desirable.

Mr. LOVE: Mr. Chairman, I do not think that this would change the intent of the section in any way of which we are aware.

Mr. LEWIS: It is a bit of legal jargon that all lawyers get into. If we mean "consider" let us just say "consider." I move the deletion of the words "and have regard to." I do not go in for legal jargon.

The JOINT CHAIRMAN (Mr. Richard): It is moved that in line 20 the words "and have regard to" be deleted. Agreed?

Some hon. MEMBERS: Agreed.

Motion agreed to.

Clause 68 as amended agreed to.

On Clause 69—*Procedure governing hearing and determination of disputes.*

Mr. LOVE: Mr. Chairman, this simply provides that the tribunal may determine its own procedure, shall give the parties full opportunity to present evidence and make submission and shall have the powers relating to the administration of oaths and the making of investigations that may relate to matters before it.

Clause 69 agreed to.

On Clause 70—*Subject matter of arbitral award.*

(Translation)

The JOINT CHAIRMAN (Mr. Richard): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, I am trying to get used to what Bill C-181 represents relative to the merit system. I see what the Commission is supposed to do so that the bill can be applied and see that the bill operates efficiently. It is so different from what happens in industry that I do not understand it quite well.

Particularly, I understand that the Civil Service Commission or the new identification of Public Service Commission is to administer Bill C-181. Now, in the case of arbitration, according to clause 70, sub-clause 3, we say that "no arbitrary award shall deal with the standards of procedures", what is important here "the processus governing the appointment". Appointment, I am in agreement, appointment everywhere in industry is the prerogative of management. When it comes to appraisal, and particularly promotion, transfer, lay-off, there, if I understand correctly, the Public Service Commission decided the other day, I think, to have special tribunals to deal with these cases. Did I understand correctly in this regard? It will be an arbitration tribunal, composed of members of the Public Service, to deal with these cases which cannot be submitted to arbitration. Is that it?

(English)

Dr. DAVIDSON: My understanding is that in the proceedings before this Committee there was agreement reached by the Committee on a system of tribunals for Bill C-181 which was somewhat different from the system that was proposed in the original bill. It would be this system of tribunals that the Committee has agreed upon for Bill No. C-181 that would deal with these matters that are referred to in subclause (3).

(Translation)

Mr. ÉMARD: Where is this covered, that these tribunals are to be established? Is it in Bill C-181?

(English)

Mr. LEWIS: Bill No. C-181.

Dr. DAVIDSON: It is for that reason, M. Émard, that this bill must exclude from its provisions matters that come within the jurisdiction of the arbitral arrangements provided for in Bill No. C-181.

(Translation)

Mr. ÉMARD: This remains in the hands of the Public Service Commission completely. Right?

(English)

The JOINT CHAIRMAN (Mr. Richard): Shall Clause 70 carry?

Mr. LEWIS: No. I share Mr. Émard's implied fears about the limitations contained in subclause (3). I have argued this before and I do not want to start it all over again. I do not see any reason why it could not be possible to draft the subclause to direct that any decision on these matters must be based on the merit system established by the public service commission or must not do violence to it, or whatever language you want to use. But to take all of these things out of the collective bargaining process, when the arbitration process is part of it, I cannot accept. We have argued this before and I do not like taking the time of the Committee to do it again. I just simply do not see any reason why the subclause could not take the appointment of employees out of the area of negotiations and tie the remaining steps of appraisal, promotion, and so on, to the

merit system established by the public service commission so that the arbitrator cannot ignore it, cannot do violence to it, but within those limits leave room for him to be able to provide something. I cannot at the moment visualize any particular case but that is the general thought that occurs to me.

I find it difficult to understand in subclause (4) the reason—except some fears the employer has—for the last words of that subclause. Why do you have to order the arbitration tribunal not to write an award which contains:

70. (4) —reasons or any material for informational purposes or otherwise that does not relate directly to the fixing of those terms and conditions.

Are you intending to appoint morons to the arbitration tribunal? Because if you are not, the members of the arbitration tribunal are not likely to deal with or say more than the fact the matters in dispute are before them. If in some situation the arbitration tribunal finds it is necessary to make some general observations that may be of value, why should you prohibit them from saying so?

An hon. MEMBER: That is to cover minority decisions.

Mr. LEWIS: It is the “i” dotting and “t” crossing which I object to. I will move the deletion of that unless I hear reasons which persuade me I am wrong, which is possible. I cannot vote for clause 70 with the limitations on the arbitration procedure which are involved in subclause (3), and which concern a very wide area of normal collective bargaining, promotion, transfer, lay-off, all of these things are always in collective bargaining, and if you want to preserve the merit system I share that desire with you. I do not think it is beyond human ingenuity or lawyers’ ingenuity to draft it in such a way as to tie the arbitration tribunal to the merit system, as established by the public service commission, without taking all of these out of the area of collective bargaining.

Senator CAMERON: Mr. Chairman, I have a note here that Arnold Heeney has commented to some extent on this particular section.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, he did.

Senator CAMERON: But I do not recall at the moment the exact way he put it.

Mr. LEWIS: Senator Cameron, in the very attractive way that Arnold Heeney has, what he said added up to the fact that he wanted to retain the merit system and that that must be left to the public service commission and cannot be left to negotiation or an arbitration tribunal that might dent it. That is the position in effect.

Mr. LOVE: Mr. Chairman, with respect to clause (3), as I understand the suggestion put forward, it would almost inevitably involve a jurisdictional conflict between two authorities, each of which would be interpreting the merit system. I think that is the basic problem that the drafter of the legislation faced in coming up with subclause (3).

With respect to the comment on clause (4), I think—

Mr. LEWIS: All I am asking is that we take away the muzzle.

Mr. LOVE: I think the underlying philosophy here is that, in a system of this kind, the award of the tribunal must be regarded by the parties as final and

binding. The experience in some other jurisdictions, and notably in the British jurisdiction, suggests that the parties are quite prepared to accept the award handed down—but if reasons were to be given, they may be somewhat upset by the implications of those reasons. In other words, the reasons might provide fodder for argument and dissatisfaction, even in situations where the awards themselves would not. The officials working on this have felt that the task of the arbitration tribunal is going to be an extremely difficult one at best, and that its status in the system would be protected to some considerable degree if it operated under terms of reference of this kind.

Mr. LEWIS: Surely the opposite is even more important, Mr. Love? Namely, that if the arbitration tribunal produces an award, which in its terms it might be considered unacceptable to just baldly put it down on a piece of paper, and it could be sold and supported by reasons, the fear that the reasons might give rise to disagreement is more than offset, in my experience, by the fact that they sell the decision to the employees concerned more often than they raise the opposite. If the arbitration board is given facts and figures and it sets out the facts and figures and its conclusion follows more or less logically—it never follows entirely logically—then the leaders, for example, of the employee organization concerned have something to persuade their members that they have not been taken. I would think that is a thousand times more important, with great respect, than the possibility that the reasons will have implications that people will not like. Furthermore, I again urge you not to make these things so rigid. Leave it to the arbitration tribunal, like any other tribunal, to use its common sense. If they think they are in a position where they can say, “The following are our conclusions and the following is the award and that is the best thing to do in a given set of circumstances”, that is what they will do. We have to assume they will be men and women of intelligence and some knowledgability. If they feel that reasons are useful, then they will put reasons in. Why should Parliament say to them, “You cannot under any circumstances put in reasons, even if you think they are desirable, nor under any circumstances can you put in informational material that in your judgment may be of assistance to somebody. You just have to put down your conclusions and nothing else.” I just do not see any need for it and I will move, Mr. Chairman, that the words “shall not contain reasons or any material for informational purposes” be struck out and the balance be edited accordingly.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis moves, seconded by Mr. Knowles that—

Mr. LEWIS: To end after the word “made” is the simplest way.

The JOINT CHAIRMAN (*Mr. Richard*): —all the words after the word “made” on line 30 be deleted.

Mr. BELL (*Carleton*): I take it the expression “that does not relate directly to the fixing of those terms and conditions” qualifies reasons. Mr. Lewis has endeavoured, I think, to leave the inference that there would be no reasons given, only conclusions. There will be reasons given in the arbitral award provided the reasons relate to the fixing of the terms and conditions.

Mr. LEWIS: Directly.

Mr. BELL (*Carleton*): With great respect, I think Mr. Lewis has not been reading recent reports of royal commissions which have been delivered by very distinguished judges and which have departed completely from terms of reference. It seems to me there is no harm in saying, "You had better stick with your terms of reference", and I think this is actually salutary. I wish this would be put into the Inquiries Act so we could tell all royal commissioners under the Inquiries Act they had better stick to their knitting.

Mr. LEWIS: You are just going from the particular to the general, Mr. Bell. This is logically unacceptable.

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready for the question?

Mr. WALKER: Have the officials any comment to make on this suggested amendment?

Senator CAMERON: Could we hear that again, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis has moved that all the words after the word "made" on line 30 be deleted.

Mr. LEWIS: It will read:

An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

Period. Then the arbitration tribunal would use its judgment as to what else it wanted to say.

Senator CAMERON: I think, Mr. Chairman—

Mr. LEWIS: We will make sure that a certain judge is not chairman of the arbitration tribunal, that is all.

Senator CAMERON: I think, Mr. Chairman, this does have a pretty paternalistic sound. There is a good deal of that running through this legislation. I am inclined to go along with the idea that it could have more advantages than disadvantages to leave it to them to give what reasons they want.

The JOINT CHAIRMAN (*Mr. Richard*): Question?

Mr. WALKER: No, not yet. I want to know which way I am heading.

Mr. KNOWLES: You ought to know.

Mr. WALKER: I do not. I would like to hear, for my own information and guidance—

Mr. KNOWLES: I do not think Mr. Walker should be given any informational material.

Mr. WALKER: I have been getting material from the right; now I would like to listen to the left over here for a minute.

Dr. DAVIDSON: Mr. Chairman, I feel more like a left-over than a left, but it does seem to me that Mr. Bell's interpretation of this wording is a correct interpretation, and if there is any doubt about that interpretation being the correct one we would undertake to have a look at this wording to ensure that that is the correct wording.

Mr. LEWIS: I do not quarrel with Mr. Bell's interpretation of the words. I just quarrel with the idea that we tell the arbitration tribunal what it should say, that we should tell them they must stick to the terms of reference, which is what the first part of subclause (4) does, but not tell them what else they might want to say. Let them use their sense about it.

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready for the question? All those in favour of the amendment, please signify? Those opposed?

Mr. WALKER: Who seconded it, do you not need a seconder?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles seconded it.

Amendment agreed to.

Clause 70, as amended, agreed to.

On clause 71—*Award to be signed by chairman*

Mr. BELL (*Carleton*): Mr. Chairman, on clause 71 we come to this question of the chairman of the arbitration tribunal always being a majority of one. I do not want to argue this matter to any extent, I have argued it in the house, I have argued it before the committee previously, and apparently this is the system that is in use and has been successfully in use in the Whitley Councils in the United Kingdom, but to me in principle it is totally wrong and I have heard nothing at all that would justify that in an arbitration tribunal wherever the chairman sits is not only the head of the table, it is the whole table. The others really become automans with no function. It seems to me when you do this you might as well say, "Well, you will have an arbitration tribunal of one." I have said all this in the house and I expect I will have to say it all again in the house. That is all I intend to say now.

Mr. LEWIS: Is this what you mean, Mr. Love and Dr. Davidson, that if there is not a majority, then the chairman's decision stands? Why cannot you say just that?

Mr. BELL (*Carleton*): No, if it is two to one, then the chairman—

Mr. LEWIS: I know, but I am asking is that what you mean by this subclause, that the chairman overrides the rest—

Mr. LOVE: No.

Mr. LEWIS: —or do you mean that if there is a tribunal of three, and each one of them has his own ideas so that you do not have a majority, then the chairman's decision is binding. Why cannot the section just say that. Where there is no majority the chairman's decision shall be the decision of the board.

Mr. BELL (*Carleton*): But that is not—

Mr. LEWIS: I am asking if that is what they intend why cannot they say that?

Mr. BELL (*Carleton*): That is not, with great respect, what this section says. This section says when two ordinary members agree but the chairman does not agree, the chairman's position as one overrides the two.

Dr. DAVIDSON: That was never the intention.

Mr. LEWIS: That is what I think. I suggest we get the law officers to redraft it and say if the two other than the chairman agree, and the chairman disagrees,

theirs is the decision. If there is no majority, the chairman's is the decision. If that is what you mean, that is what we ought to say.

Mr. LOVE: I think, Mr. Chairman, that this has from the outset been the intent, although there is one point that should be mentioned. It is the intent that there should be no minority reports, for the reason that this is an arbitration tribunal and we can see nothing but difficulty if minority reports are handed down.

Mr. LEWIS: But that is in subclause (1); no one has raised objection to that, Mr. Love.

Mr. KNOWLES: You also want to provide that no formal statement is given as to whether it was unanimous or only a majority.

Mr. LOVE: That is right, yes.

Mr. LEWIS: No one is objecting to that.

Mr. BELL (*Carleton*): Subclause (2) as now drafted means whatever report is made by the chairman this is the report of the arbitration tribunal, despite the fact that the two other members are united on a common report in opposition to the chairman. That is what it says, there can be no doubt about it.

Mr. LOVE: Mr. Chairman, we would be only too happy to have the wording of subclause (2) reviewed by the law officers with a view to clarifying the intent.

Mr. LEWIS: I will do it, if I may. There are two steps. They can draft it, and it is in other labour relations acts so they can take it right out of the Ontario act, and I think even of the federal act. The majority of the board shall be the decision of the board, and where there is no majority the decision of the chairman shall be the decision of the board. It is just as simple as that.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 71(2) stand? The other subclauses carry?

Clause 71(2) stands.

Clauses 71(1) and 71(3) agreed to.

On clause 72—*Binding effect of arbitral award*.

Mr. LOVE: Mr. Chairman, we would like to suggest that the committee consider standing clause 72, because there may be a need here for an amendment, comparable to the one we discussed in clause 58, that would ensure that an arbitral award was binding on the component parts of a council, where a council was a bargaining agent. There may also be a need for a minor amendment to subclause (2) because of commitments that have been made by the government in respect of the first agreements during the initial certification period. The intent is that it should be possible at least in some circumstances, for the provisions of the first agreements to be retroactive to October 1, 1966. We would like an opportunity to review this and to come forward with amendments at a later stage.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 72 stand?

Clause 72 stands.

On clause 73—*Term of arbitral award*.

Mr. LOVE: Mr. Chairman, I think once again, because of changes proposed in clause 26, that it would be necessary to consider some consequential amendments in subclause (2). And subclause (3) is now covered by the proposed new clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 73 stand?

Clause 73 stands.

On clause 74—*Implementation of awards*.

Mr. LOVE: This, once again, provides for the implementation of arbitral awards in the same way in which the earlier section we discussed provides for a period during which collective agreements should be implemented. It is a parallel section.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 74 carry?

Clause agreed to.

On clause 75—*Reference back to arbitration tribunal*.

Mr. BELL (*Carleton*): There have been quite a number of representations on this section, Mr. Chairman. I wonder if there are any comments Mr. Love would like to make about the representations that have been made?

Mr. LEWIS: Why do you want this?

Mr. BELL (*Carleton*): I think one of the comments was that it should be the board rather than the chairman that might refer back, but perhaps Mr. Lewis' question should be answered first.

Mr. LEWIS: Why do you want the arbitration tribunal to be subject to supervision by the chairman or the board?

Mr. LOVE: The basic problem here is that the tribunal might unintentionally fail to deal with a matter in dispute that has been referred to it. It might, in fact, fail to cover in a final way all of the matters that have been referred to it. We contemplated here a situation in which one of the parties might draw this to the attention of the chairman and have it referred back to the arbitration tribunal.

Mr. LEWIS: Excuse me for interrupting you, Mr. Love, but that is an entirely different situation. I read this section as operating before the parties were informed of the arbitration tribunal's decision. If what you have in mind is that at the request of one of the parties to the dispute—the chairman or the board, I do not care which—may refer a matter back, that is an entirely different story. My objection to it is that I read it as meaning that the chairman gets the award and before it is distributed to the parties he, in his wisdom, decides that something is not good enough and sends it back.

Mr. BELL (*Carleton*): You need to look at clause 76 in association with this.

Mr. LEWIS: Yes, there is provision for what the parties may do directly, so I am not sure you need clause 75 at all.

Mr. LOVE: Mr. Chairman, could I suggest—

Mr. LEWIS: Excuse me, except that clause 76 says both parties, and you may want a section that enables one party to say, "This has not been dealt with, do something about it."

Mr. BELL (*Carleton*): And to apply to the board—

Mr. LEWIS: To apply to the board.

Mr. BELL (*Carleton*): —to have the board return it.

Mr. LEWIS: Could you take a look at it for revision accordingly?

Mr. LOVE: We would be happy to take a look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 75 stand?

Clause 75 stands.

Clause 76 agreed to.

On clause 77—*Request for conciliation board*.

Dr. DAVIDSON: Mr. Chairman, if it is agreeable I will speak to the clauses having to do with the conciliation process. Clause 77 corresponds—and a great many of these sections correspond—very closely to the companion provisions in the I.R.D.I. Act. The companion provision here is section 17 of the I.R.D.I. Act.

Mr. LEWIS: Would you permit me to interrupt Dr. Davidson and ask, Mr. Chairman, how late you intend to sit? If there is an intention to adjourn at 12.30 there is not much sense in starting this separate section.

The JOINT CHAIRMAN (*Mr. Richard*): Is that a short statement you have to make, Dr. Davidson?

Dr. DAVIDSON: Mr. Love made the statement with respect to the sections as a group and I would have thought that we might have been able to run fairly quickly through quite a number of these sections since they do correspond so closely to the I.R.D.I. Act.

Section 77, then, Mr. Chairman, is simply the initial provision corresponding to the section I have referred to in the I.R.D.I. Act and corresponding also to a section that has already been approved by this committee. I think it is mainly section 63, having to do with a request for arbitration. They both start off exactly in the same way, where the parties to collective bargaining have bargained in good faith, have not been able to reach agreement and a dispute arises. In section 63 it is provided they may refer for arbitration and in this case it provides that they may refer the matter to the chairman with a request for a conciliation board.

Mr. LEWIS: What does subclause (2) mean, that the chairman can establish a board without being asked to do so?

Dr. DAVIDSON: We are talking about clause 77, Mr. Lewis.

Mr. LEWIS: I am sorry, I beg your pardon.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 77 carry?

Mr. LEWIS: I have already carried it in my mind.

Clause agreed to.

On clause 78—*Establishment of conciliation board where requested by either party*.

Dr. DAVIDSON: Now, the answer to Mr. Lewis' question is that clause 78(1) specifies two preconditions to the establishment of the board. One is that a conciliator has tried and failed and the other that either party has requested the establishment of a board. In those circumstances it is mandatory on the chairman

to appoint a board unless he thinks that the appointment of such a board is unlikely to serve a useful purpose. Subclause (2), on the other hand, deals with all other situations, and that could include a situation where a party has requested the establishment of a board in circumstances where there has been no conciliator appointed prior to the request for the establishment of a board. In this case it is optional for the chairman to decide. The combination of sections 77 and 78 makes it clear that the conciliation process, as distinct from the conciliation board process, is not an essential in all proceedings.

Mr. LEWIS: What you are saying is you may get a conciliation board without having had a conciliation officer?

Dr. DAVIDSON: Correct.

Mr. LEWIS: What worries me a little about subclause (2) is that, read as it stands, it gives the chairman the authority to establish a board even in a situation where neither of the parties has asked for it.

Dr. DAVIDSON: Yes. That is correct.

Mr. LEWIS: Is that not a little too much power in the hands of a chairman?

Mr. BELL (*Carleton*): I could agree to that if the board were to do it, but I have difficulty in having the chairman do it.

Mr. LEWIS: What you are giving the chairman is the power at any point to sneak in on the negotiations and decide that he does not like what is going on so he appoints a board.

Dr. DAVIDSON: Perhaps we have made the mistake of following the I.R.D.I. Act too closely, Mr. Lewis.

Mr. BELL (*Carleton*): What section of the I.R.D.I. Act?

Mr. LEWIS: I could show you some other things that you were mistaken in following too closely.

Dr. DAVIDSON: Section 17 of the I.R.D.I. Act provides, "Where a Conciliation Officer fails to bring about an agreement between parties engaged in collective bargaining or in any other case where in the opinion of the Minister a Conciliation Board should be appointed to endeavour to bring about agreement between parties to a dispute, the Minister may appoint a Conciliation board for such purpose". The specific point here is that the minister is not limited to taking this action on the request of either party. The reason, rightly or wrongly, for specifying here that it is the function of the chairman rather than the board is that we have endeavoured to confer upon the chairman of the Public Service Staff Relations Board, in his capacity as chairman, the functions which, under the I.R.D.I. Act, are the responsibility of the minister as distinct from the Canada Labour Relations Board.

Mr. WALKER: Mr. Chairman, how do you cover the situation where neither party has made a request, and because of a lack of request for a board the public service is being harmed? I presume this is the situation that you are hoping this clause would be helpful in assisting. If that is the outside purpose, the bare chance of using that paragraph, I think it gives the chairman a wide open opportunity to move in unwanted and interject himself, and yet we also want, I believe, where the public interest is really being damaged by, say, stubbornness

on both sides, some authority in the chairman or the board to move at the right time. Is this along the line of your thinking?

Mr. BELL (*Carleton*): I think probably there is a need for this section but I do not like the power being vested solely in the hands of the chairman, and I would like to move that in line 35 the word "chairman" be struck out and the word "board" substituted therefor.

Mr. WALKER: I had the impression, Mr. Chairman, that Dr. Davidson and his officials were going to ask to have this clause stood so they could look at the wording of it. If I understood you correctly this is pretty well right out of the I.R.D.I. Act and that was the merit for putting it in.

Mr. LEWIS: On second thought I think there may be value in somebody appointing a conciliation board, if the negotiations have gone on too long and appear not to be getting anywhere and if neither side is making a move. There may be value in it. Do you think that the staff relations board as a whole, or a division thereof, should do it rather than the chairman?

Mr. BELL (*Carleton*): It seems to me in this circumstance it is too much power to put in the hands of the chairman alone.

Mr. KNOWLES: On the other hand, does that not give it a formal character that is not completely consistent with the purpose of assisting the parties?

Dr. DAVIDSON: We are constantly, Mr. Chairman, up against this problem, and I recognize the validity of the argument that we are putting a great deal on the shoulders of the chairman. What we are confronted with is the problem of assigning to the Public Service Staff Relations Board all of the functions which are the functions of the Canada Labour Relations Board on the one hand, and also taking care of the functions set out in the Industrial Relations Disputes and Investigation Act which in that act are placed on the shoulders on the minister. Obviously we cannot place any of these responsibilities on the shoulders of the Minister of Labour under this legislation and our solution has been to adhere, I think, consistently throughout this bill to the principle that where, under the Industrial Relations and Disputes Investigation Act, a responsibility is vested in the board as a whole—certification being an example—then under the bill before us those responsibilities are vested in the board as a whole. But where, under the Industrial Relations and Disputes Investigation Act, the responsibilities are vested in the minister as distinct from the Canada Labour Relations Board, we have consistently followed the practice in our bill of vesting those responsibilities in the chairman rather than in the Board. Now this is the principle that I would like to put before the committee as the explanation of the distinctions we have made consistently throughout the bill.

Mr. BELL (*Carleton*): It may have the virtue of consistency, but I am not sure that it has any other virtue.

Dr. DAVIDSON: Mr. Bell, even consistency is not always a virtue. But, may I just add too, that one of the concerns that we have, is that we should not get the Board, as a Board, involved in the kinds of processes that are sometimes fairly delicate; for example the timing of the decision on the right moment to move in, if it has to be made by 10 people meeting as a Board rather than being put in the hands of the chairman, has some disadvantages. There are certain of these responsibilities which under both pieces of the legislation—the I.R.D.I. Act and

this legislation—are vested in the chairman, which, if they were to be vested in the board as a whole would, we think, involve the board more directly than we think it should be involved in the relationships between the two parties and the tensions that build up in a negotiating situation.

Mr. LEWIS: You did undertake the other day to look into the question of dividing the chairman's authority.

Dr. DAVIDSON: Yes sir. We have not forgotten that, and I have asked that an examination be made of all these responsibilities. The thing that does concern me is that the chairman really has three sets of responsibilities under the bill as we have it drafted. He has the responsibility of being the Minister of Labour in this legislation. He has the responsibility of being the chairman of the board as a whole, and he has the responsibility of being the chief executive officer of what you might call the bureaucracy of the board. This places, I must agree, a pretty heavy burden on him, and we will look at this to see if there are any functions that we can properly recommend be vested elsewhere.

Mr. LEWIS: There is another point before we deal with Mr. Bell's amendment. Have you given any thought to the advisability of the chairman, or whoever it may be, who is on the verge of taking this kind of action, giving the party notice that he intends to do it? My instinctive objective to this kind of provision is to give anybody the right to jump in at any time they like without the parties' knowing about it. I think the whole process would be improved if there was provision that he had to give the party notice of his intention to do this. Then he can listen to what they have to say.

Mr. BELL (*Carleton*): Because Dr. Davidson has been examining, in general, the powers of the chairman, why do we not let this section stand?

Dr. DAVIDSON: Could we let it stand and work on it?

Clause 78 (1) agreed to.

On clause 78(2) stands.

On clause 79—*Designated employees*.

Dr. DAVIDSON: Clause 79 provides for the prior designation of the designated employees; that is to say, the employees

—whose duties consist in whole or in part of duties the performance of which at any particular time or after any specified period of time is or will be necessary in the interest of the safety or security of the public.

It is the obligation of the employer to provide a list within twenty days after notice to bargain collectively is given by either of the parties, of the persons whom he proposes to designate as designated employees. The bargaining agent is given an opportunity to take exception. There is a negotiation process between the two sides called for, and where there is inability to decide on an agreed list, the decision has to be resolved by the Board.

There are two changes that we would like to suggest which, in our opinion, are purely technical. One has to do with subclause (2), the requirement on the part of the employer to furnish the list of designated employees within twenty days. This list is only relevant in the case of bargaining units that choose to go the route to the conciliation Board; it has no relevance at all in the case of units

that go the arbitration route. Therefore, we want to introduce a technical amendment that will limit the application of this subclause (2) to situations involving bargaining units that have opted for the conciliation board route.

We have kicked around subclause (5) quite a bit, in an effort to decide whose responsibility it should be to inform the employees in a bargaining unit as to which ones are designated employees. We have decided that this should not be made the responsibility of the bargaining agent but that it should be made the responsibility of the board.

Mr. LEWIS: I have one word that worries me, and that is the word "public" in subclause (1), line 11. Subject to discussion, I would feel much happier if the word was "state". I think "public" is too wide a concept. When you talk about the safety or security of the state, everybody knows that you are dealing with defence, the R.C.M.P. and areas of that sort. That is a thought that I have had ever since I read this bill.

Mr. BELL (*Carleton*): Offhand, I am inclined to agree.

Mr. LEWIS: The security of the public, the safety of the public, you can stretch that pretty far. And since it is a limitation on the normal process—a limitation with which I agree; I am not objecting to limitation—I would like to suggest the words "safety and security of the state" are much—

Dr. DAVIDSON: Mr. Chairman, could I use an illustration? If there were a situation involving the danger of accidents, where people's lives might be a hazard and where it could not be regarded as a matter affecting the security of the state, would you think that this should not be covered? Take, for example, stationary engineers.

Mr. LEWIS: This is my concern. Take the thing that is now happening on the West Coast, the foremen of the longshoremen are not coming in to work. Presumably their striking may affect the safety of the men working. They say they do not have adequate supervision. You have given me one example; I am giving you another one. Under "the safety of the public"—which of course, means any section of the public—the foremen of the longshoremen on the West Coast would not be permitted to strike, because without foremen you cannot do a safe job.

Dr. DAVIDSON: These have to be challenged by the bargaining unit, remember, Mr. Lewis. This is not a unilateral decision of the employer. It does seem to me that to limit this to situations where the high interest of the state is the only circumstance under which you could designate employees as employees who must stand by on the job, even though the strike may go on, would be very questionable as public policy. The arrangement proposed is very much like the standby arrangements that the unions accept as being part of their responsibility in the industrial setting.

Mr. LEWIS: They do that all the time.

Dr. DAVIDSON: In essence, this is a much more limited provision than the provision which I understand exists in the industrial setting.

Mr. KNOWLES: What about just "in the interest of safety or security"? It seems to me that Mr. Lewis' argument has merit, but the way it reads it is almost

like handing a political argument into this situation. I am certain that is not wrong but you could hardly write it into a statute.

Dr. DAVIDSON: If Parliament takes the responsibility of providing services to the public, has it not a responsibility to ensure that those services are maintained if the discontinuation of those services threatens the safety and security of the public?

Mr. LEWIS: Does this prevent a post office strike?

Dr. DAVIDSON: No. There is nothing related to the safety and security of the public.

Mr. LEWIS: Oh, but that might be an interpretation.

Suppose I await a letter from my doctor with regard to an illness in my family?

Dr. DAVIDSON: There might be a very limited sector where you have for example biologicals, blood samples or matters of this kind, and—

Mr. LEWIS: Yes, exactly.

Dr. DAVIDSON: —it might conceivably be possible for the employer to make the point that at least one or two people should stay on the job to look after these kind of transfers. In these circumstances, however it is always open to the staff, to the bargaining unit, to object to the employer's proposed designation on the grounds that this is stretching too far the interpretation. The case then, if there is to agreement, is resolved by recourse to the Public Service Staff Relations Board. I must say that it seems to me that this is a reasonable proposition. I must also say that I think it would be most unwise if I may say so with respect to put in here a provision which says by implication at least that services which are essential to the safety and security of the public do not have to be maintained by parliament, and that the government has no responsibility for at least trying to designate employees who should stand by and meet these emergency situations. Surely it is not suggested that the only circumstance that would justify a proposal to designate an employee who must remain on the job even though his unit is going out on strike, would be one that threatens the safety and security of the state as a whole.

Mr. BELL (*Carleton*): I confess I have changed my mind in listening to the discussion, from the offhand view which I had at first. I am reminded of the illustration that I think Mr. McCleave gave, when we were discussing earlier the lighthouse keeper of those who laid the buoys; certainly there is a case of the safety and security of the public rather than the state. There is no threat to the safety of the state if a lighthouse keeper walks off.

Senator CAMERON: Mr. Chairman, what is the relation of this clause to clause 101? Is there not some connection there that we should not lose sight of?

Dr. DAVIDSON: I am not clear Senator Cameron what you have in mind.

Mr. LEWIS: Of the purpose of designating employees because they cannot be on strike.

Mr. BELL (*Carleton*): That is the net result.

Dr. DAVIDSON: It should be made clear Mr. Chairman that what is involved here is not the invoking of this with respect to a whole occupational group of bargaining units, but only in the case of a group which has said that it proposes to resort to the conciliation board route, and to the strike option, the proposal here is that the employer may propose that certain individual members, presumably a minimum number of those, should be designated as persons who have to remain at their job even if their fellows go on strike. The numbers involved and the justification for those is a matter for negotiation between the bargaining unit and the employer, and if they cannot agree the matter is resolved by the Board.

The JOINT CHAIRMAN (*Mr. Richard*): Is clause 79 agreed?

Mr. KNOWLES: No. Is the safety and security of the state excluded in clause 79?

Mr. BELL (*Carleton*): No.

Mr. KNOWLES: Because you have used the word "public".

Mr. LEWIS: "Public" includes the state, but "state" does not include the public.

Dr. DAVIDSON: I see that I am supported by my two colleagues, learned in the law, Mr. Lewis and Mr. Bell, in saying that the answer to that is "no".

Mr. LEWIS: Oh, we all are lawyers but that does not say we are learned in the law.

Mr. BELL (*Carleton*): We may send you an account for that.

The JOINT CHAIRMAN (*Mr. Richard*): Is Clause 79 agreed to?

Mr. BELL (*Carleton*): Subject to an amendment on subclauses (2) and (5)

Clause 79, subclauses (1), (3) and (4) agreed to.

Clause 79, subclause (2) and (5) stand.

On clause 80—*Constitution of conciliation board*.

Dr. DAVIDSON: Clause 80, I am advised, is almost completely parallel to section 28 of the I.R.D.I. Act with the exception of subclause (6) which states that the provisions of section 61, which has already been approved by the Committee in respect of the arbitration tribunal proceedings, shall also apply to the qualifications for membership of persons on the conciliation board; that is to say, the basic proposition is that a person is not eligible to hold office on either an arbitration tribunal or a conciliation board if under subclause (1) of Clause 13, which we already have dealt with he would not be eligible to be a member of the Public Service Staff Relations Board. He must be a Canadian citizen; he must not be an employee of the employer organization and so on.

Clause 80 agreed to.

On clause 81—*Vacancies*.

Dr. DAVIDSON: Clause 81 is the I.R.D.I. Act, section 21.

Clause 81 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*):

On clause 82—*Notification of establishment of conciliation board*.

Dr. DAVIDSON: Clause 82 is a combination of the I.R.D.I. Act section 28, subparagraphs (6) and (7).

Clause 82 agreed to.

On clause 83—*Terms of reference of conciliation board.*

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed?

Mr. LEWIS: No, sir.

The JOINT CHAIRMAN (*Mr. Richard*): All right, it is a quarter to one and we will adjourn.

Mr. LEWIS: Do you have a suggestion to take away the power from the Chairman to amend the blessed thing? If not, we are going to argue about it.

Dr. DAVIDSON: I had line 3 taped, but I did not have line 7. I am sorry.

Mr. BELL (*Carleton*): Does Dr. Davidson have any idea when the draft amendments may be made available to us?

Dr. DAVIDSON: What we are hoping, Mr. Chairman, is that we will complete the study of the clauses in their present form by the end of the week. Over the week end we will be able to work out with officers of the Department of Justice as many as possible—I would hope all—of the amendments that relate to the clauses that have been stood and we hope to be ready to put these in the hands of the Clerk some time Monday. I would hope that we could make these available for members of the Committee so that we could sit down together on Tuesday morning and begin to go over what you might call the second reading of the clauses that have been stood.

Mr. KNOWLES: You promise us all that work over the week end despite the Grey Cup game?

Dr. DAVIDSON: Well, I was assuming that this Committee was going to have a meeting on Saturday afternoon, Mr. Chairman.

Mr. WALKER: They will be playing in the fog anyway.

The JOINT CHAIRMAN (*Mr. Richard*): If I had my way we would. We will meet this evening at 8 o'clock.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 21

FRIDAY, NOVEMBER 25, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

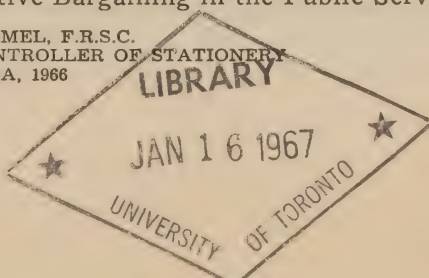
BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board*; Mr. R. M. Macleod, Assistant Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard
and

Representing the Senate
Senators

Representing the House of Commons

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Knowles,
Mr. Lachance,

Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Rochon,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Édouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

FRIDAY, November 25, 1966.

(38)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.42 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hymmen, Knowles, Lewis, Madill, McCleave, Orange, Richard, Tardif, Walker, (11).

Also present: Mr. Côté (*Nicolet-Yamaska*).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered Bill C-170 as follows: Clause 83, stand; Clause 84, carried; Clause 85, carried; Clause 86, carried, on division; Clause 87, carried; Clause 88, carried; Clause 89, carried; Clause 101, carried; Clause 102, carried; Clause 103, stand; Clause 104, carried; Clause 105, carried; Clause 90, carried; Clause 91, carried; Clause 92, stand; Clause 93, carried; Clause 94, carried; Clause 95, stand; Clause 96, stand (see amendment to subclause 96(5) below); Clause 97, stand; Clause 98, carried; Clause 99, stand.

Moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That the words “employee organization” be deleted lines 24, 25 and 26 Sub-clause 96(5) page 44 be deleted and the words “bargaining agent” substituted therefor.

The Committee accepted a Chart depicting the possible grievance machinery as an appendix to this day’s proceedings. (*See Appendix V*)

At 11.00 a.m., the meeting adjourned to 2.30 p.m. this same day.

AFTERNOON SITTING

(39)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 2.43 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Deschatelets, MacKenzie (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Hymmen, Knowles, Lachance, Lewis, McCleave, Orange, Richard, Tardif, Walker (11).

In attendance: (As for morning sitting).

The Committee resumed the clause by clause study of Bill C-170 as follows: Clause 100, carried; Clause 107, carried; Clause 108, carried; Clause 109, carried; Clause 110, stand; Clause 11, carried; Clause 112, carried; Sub-clause 113(1), carried; Sub-clause 113(2), stand; Clause 114, carried; Clause 115, carried; Clause 116, carried; Schedule A, carried as amended (see two motions below); Schedule B, carried; Schedule C, carried.

Moved by Mr. Knowles, seconded by Mr. Lewis,

That Schedule A be amended by deleting the words "Government Printing Bureau" from Part I thereof and by inserting the said words in Part II thereof, immediately after the words "Fisheries Research Board".

And the question being put on the said proposed amendment, it was negatived on the following division: Yeas, Messrs. Bell (*Carleton*), Knowles, Lewis, McCleave—4; Nays, Senator Deschatelets and Messrs. Berger, Hymmen, Lachance, Orange, Tardif, Walker—7.

Moved by Mr. Walker, seconded by Mr. Orange,

Agreed,—That Part I of Schedule A be amended by deleting the words "(except the positions therein of members of the force)" after the words "Royal Canadian Mounted Police".

The Committee unanimously agreed to the withdrawal of the proposed motions re Clauses 32 and 34 put by Mr. Émard at meeting (36) November 22, 1966, and the substitution therefor of a proposed amendment to Clause 28 for consideration by the Treasury Board representatives:

Moved by Mr. Émard, seconded by Mr. Lachance,

"28. When two or more associations wish to be recognized to represent a unit of employees which is appropriate for bargaining purposes, in the circumstances described hereunder, the Board may require the said associations to form a council which, if certified, shall become the bargaining agent for all employees included in the bargaining unit. For the purposes of the present Act, the Council shall have all the rights, privileges and duties of a certified association.

The Board may thus subject the granting of certification to the establishment of a Council, if in its opinion, recognition of a single association, even if it is a majority association, would deprive one or more sizable groups of employees, either because of geographic location or the homogeneity of their group, of their right to be represented by the association of their choice.

No association may demand that the Board require establishment of a Council, unless the said association represents at least 15% of the employees included in the bargaining unit."

At 4.02 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

FRIDAY, November 25, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Will the meeting come to order.

It is unfortunate that we had to cancel the meeting last night because it would have enabled the members to have Friday morning free for other work. I am hoping this morning we can proceed as diligently as we have been proceeding and conclude the remaining sections on first reading. This will enable us to start over again on Tuesday with the amendments which, I hope, will by then have been drafted in their proper form by the officers of the department.

We are now at clause 83.

Mr. KNOWLES: Mr. Chairman, before we begin, I wonder if I could ask Dr. Davidson one question in case I have to do any homework on it over the week end. What has happened to the section which is in the old Civil Service Act regarding holidays—what we generally call statutory holidays?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): That has been removed from the legislation because it is considered to be bargainable. One of the considerations in removing it was the consideration that is in here, in the section we have already dealt with under arbitration, having to do with the inability to include in a collective agreement any matter that is, in effect, enshrined in the statutes.

Mr. BELL (*Carleton*): We had a discussion on this when Mr. Cloutier was a witness.

Mr. DAVIDSON: Yes.

Mr. KNOWLES: That is under the labour legislation. It is bargainable and yet we have it in the Canada Labour Standards Code.

Dr. DAVIDSON: Let me make it clear, Mr. Knowles. The government, as a declaration of policy, has already, stated that it intends to abide by the provisions of the Canada Labour Standards Code, so that it can be taken that the provisions regarding holidays in the Canada Labour Standards Code are the minimum provisions applicable to the public service as well as to industrial employment under federal jurisdiction.

Mr. KNOWLES: There is only one day's difference. There are eight in the Canada Labour Standards Code and there were nine in the Civil Service Act.

Dr. DAVIDSON: There were nine in the Civil Service Act but I think there are ten, as a matter of practice. I can assure you that there is no intention on the government's part, so far as I know, to endeavour to water down that level of statutory holidays. But it was felt that this should be a matter that the unions should be entitled to bargain on and, therefore, that we should take it out of the

statutes, particularly since it really does not belong in the Public Service Employment Act since it should not come under the jurisdiction henceforth of the Public Service Commission.

Mr. KNOWLES: Suppose I answered my own question by saying that it is not in the I.R.D.I. Act but it is in the Canada Labour Standards Code. Therefore, it is not in the bill now before us, but the government will follow the provisions of the Canada Labour Standards Code in this respect.

Dr. DAVIDSON: Correct.

Mr. KNOWLES: At least.

Dr. DAVIDSON: And the subject matter will be bargainable as it is in the I.R.D.I. concept.

Mr. KNOWLES: Thank you.

On clause 83—*Terms of reference of conciliation board.*

Mr. BELL (*Carleton*): This, I take it, is modelled on section 31 of the I.R.D.I. Act?

Dr. DAVIDSON: Mr. Chairman, I could limit the discussion, perhaps, by saying that having looked at this and having had some intimation of rumblings from Mr. Lewis on the wording of the last part, I would be prepared to suggest that we adopt the wording of the I.R.D.I. Act in this clause.

Mr. LEWIS: In answer to Mr. Bell, I think what section 31 of the I.R.D.I. Act says is that the minister may refer a report back to the conciliation board for further consideration.

Mr. BELL (*Carleton*): No.

Dr. DAVIDSON: No.

Mr. BELL (*Carleton*): Subsection (1) says: "Where the Minister has appointed a Conciliation Board he shall forthwith deliver to it a statement of the matters referred to it, and may, either before or after the making of its report, amend or add to such statement."

Dr. DAVIDSON: In my own view, after looking at that, it would be acceptable for us to adopt the same wording although, in fact, we do not think there is any material difference between our more elaborate wording and this section.

Mr. LEWIS: I had forgotten, frankly, this provision in section 31(1) of the Industrial Relations and Disputes Investigation Act. In my experience it has never come up. I do not know of a case where it was done.

An hon. MEMBER: It is imperative, sir.

Mr. LEWIS: Well, it is imperative to deliver the statement of the matters referred to the board; it is not imperative that he add or delete therefrom. I want to say that I still object to that power being in the chairman's authority, particularly the wording: "any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement." Why should the chairman have the right to add or subtract unless either of the parties asks him to? The decision is not final; it is not binding.

Senator CAMERON: Is there not a proposal to substitute?

Mr. LEWIS: That would still give him that power.

Dr. DAVIDSON: I think we felt, Mr. Chairman, that while the initial statement to the board presumably constitutes the basic statement of the issues, this statement should not be regarded as engraved in tablets of stone, that it should be capable of clarification or amendment, either on the initiative of the parties concerned or on the initiative of the chairman, and the channel through which these changes, if any, should be made should be the channel of the chairman who transmits the statement in the first place. Now, I confess that we were relying essentially on the fact that this is an established provision of the Industrial Relations and Disputes Investigation Act. I confess I am not certain whether or not a similar clause appears in other provincial legislation.

Mr. LEWIS: It may; there are quite a few. The provinces have modelled their legislation on the federal legislation so I imagine it may be there.

May I ask you another question before you reconsider? I think one of the things that worried me—this is not a matter of principle; I am thinking of it in practical terms as Senator MacKenzie, I am sure, has experienced—is that normally in the course of the bargaining before a conciliation board or with the assistance of a conciliation board, the statement of matters in issue is not necessarily adhered to and someone in the middle of the negotiations before the board comes up with a brainwave that if you give us so and so or if you do such and such, we will give you this and the such and such may not be on the statement at all. I think that what worried me was whether this means that the conciliation board cannot do this kind of exchange and accept this kind of give and take without the statement being amended by the Chairman of the Staff Relations Board.

Dr. DAVIDSON: Certainly this would not be my interpretation of what the intent is here, Mr. Lewis. It may be that we should review not only the wording we are talking about now but the somewhat tighter wording that is in clause 83 compared to the I.R.D.I. Act and section 20 of the Ontario Labour Relations Act, where we say that the statement prepared by the chairman is to set forth the matters on which the board shall report its findings and recommendations to the chairman.

Mr. LEWIS: Exactly.

Dr. DAVIDSON: Now, those words are neither in the I.R.D.I. Act nor in the Ontario Labour Relations Act, and I would certainly wish to look at this. But I think I would come back to the point that if this provision is in the I.R.D.I. Act and the Ontario Labour Relations Act, there certainly should be no harm in including it in this legislation, in the form in which it appears in other legislation, particularly if, as you say, to your knowledge it has seldom if ever been used.

Mr. LEWIS: I think it is made clear that the statement prepared by the chairman is based on the issues submitted to him by the parties—I am not wording it now—and does not constitute terms of reference in the same way as terms of reference to an arbitration board.

Dr. DAVIDSON: But they are bound by it.

Mr. LEWIS: But they are bound by it, which is what it now reads like. That is what, I think, concerned me, in the back of my mind.

Mr. J. D. LOVE (*Personnel Policy Branch, Treasury Board*): Mr. Chairman, if I might just comment on this, largely for the sake of contributing to the discussion, it has been my assumption that the statement referred to the conciliation board would in no way prevent the parties with the assistance of the conciliation board in hammering out an understanding. I always have assumed that the statement, in fact, would have a bearing on what the conciliation board might make recommendations on if it failed to bring about agreement between the parties. I think in its origin, the section in the I.R.D.I. Act, to which reference has been made and which would permit the minister to add to the statement, was designed to take care of the very unusual situation in which the minister concluded that although neither of the parties had referred to a particular matter in setting up the terms of reference for the board of conciliation, the minister concluded that there was an issue that was having an effect on the relationship and on the possibilities of settlement, and by adding to the statement he might put the board in a position to make public recommendations on a matter which, in his judgment, was affecting adversely the possibilities of settlement.

Clause 83 stands.

On clause 84—*Duties of conciliation board.*

Dr. DAVIDSON: Clause 84 is straightforward, Mr. Chairman. It comes from section 32 of the I.R.D.I. Act.

Clause 84 agreed to.

On clause 85—*Powers of conciliation board.*

Dr. DAVIDSON: Clause 85 is comparable to sections 33 and 34 of the I.R.D.I. Act and is comparable to clause 69 of this bill, which the Committee has already dealt with.

Clause 85 agreed to.

On clause 86—*Report to Chairman.*

Dr. DAVIDSON: Clause 86 is similar to section 35 of the I.R.D.I. Act so far as subsection (1) is concerned. So far as subsections (2) and (3) are concerned they correspond in terms of the conciliation board process, with similar clauses having to do with the ruling out of matters covered by statute and matters relating to the merit system. These matters, you will recall, were ruled out in the arbitration process in clause 70 and they are ruled out here so far as the terms of reference of the conciliation board are concerned.

I will assume that the same reservations as set out by some members on these points would apply here.

Mr. LEWIS: Mr. Chairman, I had a thought on this issue on which every civil service organization has commented, I think I am right to say, without exception. I am referring to subsection (3), the limitation in bargaining on promotion, demotion, transfer, lay-off, and so on. I appreciate entirely the point made by Mr. Love the other day and the point made by Mr. Heeney when he was before the Committee, since everyone agrees on the desirability and, perhaps, even the imperativeness of retaining the merit system, that it is necessary that the Public Service Commission do so, and there are not the double jurisdiction, conflicting decisions and the erosion of the merit system by this or that.

I have tried to think a great deal about this and whether or not it is possible to arrive at a system that would do both things: that would give the Public

Service Commission sort of the final say in these matters in order (a) to maintain the merit system and (b) to maintain it on a consistent standard, and at the same time still enable the organizations representing public servants to bargain, to raise issues with regard to them, and to express in bargaining what they wish done about it.

The following thought occurred to me. I am not putting it to you, Dr. Davidson and your assistants, in any dogmatic way, but I wonder if it is not worth looking at. First, I think, clearly no one else should have anything to do with appointment except the Public Service Commission, so I would put a period after the word "appointment". I have no quarrel at all with the proposition that neither the arbitration board nor the conciliation board should have anything to do with appointment—I should say initial appointment.

So far as the appraisal, promotion, demotion, transfer, layoff or release of employees is concerned, can you visualize any difficulties about leaving these matters to be matters for bargaining and for decisions by an arbitration board or recommendations by a conciliation board provided such decisions or recommendations have the approval of the Public Service Commission, whose decision shall be final?

What I visualize is that representing a civil service organization, the spokesman makes a certain recommendation with regard to promotion, demotion or transfer; it is discussed, and if the conciliation board or the arbitration board thinks there is merit in this suggestion, it will go to the Public Service Commission be put before the commission and if the commission says: "No, you cannot have it; this interferes with it." That is it. If the commission says: "Well, that does not seem to interfere with the merit system; if it will make these 10,000 or 20,000 people happier to have it this way, why not?" Then they can recommend or award.

Mr. CHATTERTON: I would like to put a question, Mr. Chairman, through you to Mr. Lewis. Would that not create a difficulty where, say, one of the parties, the employee, had settled on some other issue on the understanding that the question with regard to, say, demotion was agreed upon and then the commission did not accept the recommendation of the conciliation board or changed the decision of the arbitration board. And where would the party stand then if they had agreed?

Mr. LEWIS: In my own mind, as I said, I would not be dogmatic at all, but it seems to me a possible avenue for giving the staff organizations the right to bargain about this. I visualize, in my mind, that the moment the matter is reached, if the board thinks it has merit—that is the conciliation board or the arbitration tribunal—it would immediately be in touch with the Public Service Commission and, I imagine, some officer of the commission who is in charge of the major things and quickly find out.

Mr. BELL (*Carleton*): This is not just in arbitration or conciliation; this is in negotiation as well. Would you not, by the proposal you make, make every collective bargaining agreement subject to the final decision of the Public Service Commission?

Mr. LEWIS: On these issues.

Mr. BELL (*Carleton*): On these issues, before a collective bargaining agreement could finally be concluded it would have to be referred to the Public Service Commission and by them approved in relation to these matters?

Mr. LEWIS: What is so horrendous about that? You probably would not reach the agreement; this is an intermediate step. May I point out there is nothing here to prevent these matters being in negotiation. If I read the act correctly and if I understood the explanations correctly of all the people who have appeared before us, there is nothing to prevent—am I not right—these issues—

Dr. DAVIDSON: There is nothing to prevent these issues being discussed.

Mr. LEWIS: —being discussed, which is what negotiation really is and I can raise it at the bargaining table. The only thing is that when the discussion is over, neither the arbitration board nor the conciliation board can pronounce a conclusion on it, whether in the form of a decision or in the form of a recommendation.

What I am suggesting is that the discussion on these things undoubtedly will take place. I expect I would bet a lot of money, if I had it, that you will not keep it off the bargaining table. These matters are so essential to conditions of work that you are not going to be able to keep any staff organization from raising hell about the way in which certain standards are being carried on. I suppose they can raise it with the Public Service Commission directly.

Dr. DAVIDSON: It is the only agency that has the jurisdiction and the legal authority to do anything about it.

Mr. LEWIS: You do not think any such compromise is feasible?

Dr. DAVIDSON: I must say that certainly we would explore it, Mr. Lewis, but I would be very much concerned about any such proposition as this, not only for the reason that Mr. Bell adduces but because it does involve superimposing the authority of the Public Service Commission over the authority of arbitration tribunals and over the authority of conciliation boards. I think there would be only disillusionment and resentment that could come from that in the actual experience at the bargaining table. I think the Committee and Parliament have to really make up their minds whether they are going to give the jurisdiction on these matters to the Public Service Commission and set up an appeal system within the jurisdiction of the Public Service Commission, or are they not? If we try to mix the two and develop a double set of tribunals really, or a system of veto of one set of tribunals over another set of tribunals in the same subject matter, I think we are only borrowing trouble for the future.

Mr. LEWIS: Mr. Bell and you may be right.

Mr. CHATTERTON: Dr. Davidson's argument applies even more if there was some further tribunal for appeal beyond the commission, as Mr. Bell has proposed. It would apply even more in that sense.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 86 carry?

Mr. LEWIS: I am still not happy with subclause (3), although I suppose the majority carries it.

The JOINT CHAIRMAN (*Mr. Richard*): On division?

Mr. LEWIS: I would still like to think about this whole area.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 86 carries on division.

Clause 86 agreed to.

On clause 87—*Copy of report to be sent to parties.*

Dr. DAVIDSON: That is section 36 of the I.R.D.I. Act, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 87 carry?

Mr. LEWIS: What does "forthwith" mean?

Mr. DAVIDSON: As soon as possible.

Mr. LEWIS: All right.

Clause 87 agreed to.

On clause 88—*Report as evidence*.

Dr. DAVIDSON: That is section 37 of the I.R.D.I. Act.

Clause 88 agreed to.

On clause 89—*Binding effect where agreed by parties*.

Dr. DAVIDSON: That is section 38 of the I.R.D.I. Act.

Clause 89 agreed to.

On clause 101—*Participation by employee in strike*.

Dr. DAVIDSON: This is the provision with respect to the circumstances under which strikes are prohibited and strikes are permitted. It corresponds, generally, I am advised, to the provisions of the I.R.D.I. Act with the exception that (1) (c), the reference to a designated employee, does not appear in the I.R.D.I. Act and, of course, (b), the reference to the exclusion of bargaining units that have opted for arbitration, does not appear in the I.R.D.I. Act. I think all of the rest corresponds to the I.R.D.I. Act

Mr. LEWIS: May I respectfully suggest that you do not need the words in subclause (2) "who is not an employee described in subsection (1)". They cannot participate in a strike, in any case. At all events, every time I have read it, I have to go back and see why it is in there.

Dr. DAVIDSON: Can I check on this, Mr. Lewis?

Mr. LEWIS: Maybe you do need it, I do not know.

Clause 101 agreed to.

Dr. DAVIDSON: I will check and report on it, but I take it the clause is approved, apart from that?

Some Hon. MEMBERS: Yes.

On clause 102—*Declaration or authorization of strike*.

Dr. DAVIDSON: This corresponds to section 41(4) of the I.R.D.I. Act.

Clause 102 agreed to.

On clause 103—*Application for declaration of strike as unlawful*.

Dr. DAVIDSON: Clause 103(1) and (2) correspond to sections 67 and 68 of the Ontario Labour Relations Act. I think there is one suggestion that we would offer here for improvement. These both involve ex parte applications to the board for a declaration by the board that a strike is or would be unlawful in one case, or whether a strike is or would be lawful in another case.

Mr. LEWIS: Why do you say ex parte?

Dr. DAVIDSON: Where it is alleged by the employer. Clause 103 begins: "Where it is alleged by the employer".

Mr. LEWIS: Is it your intention that the other side would not get notice?

Dr. DAVIDSON: That is the point I am coming to. As it is now worded, there is no assurance of notice being given to the other parties, and it was our intention to propose to the Committee that we redraft it to provide for notice being given to the other party.

Clause 103 stands.

Mr. LEWIS: Excuse me, what is the situation in which subsection (2) would operate? Unless the union's right to strike was challenged, in what situation would the union ask for a declaration that it is virtuous?

Dr. DAVIDSON: I would assume that it would only be a situation where the union, for greater certainty, wanted to be assured of its position. It is really to maintain the balance between the position of the employer and the employee, and this was put in to even things out.

On clause 104—*Offences and punishment*.

Dr. DAVIDSON: The provisions of clause 104 come directly from sections 41 and 42 of the I.R.D.I. Act.

Mr. McCLEAVE: I had objections, Mr. Chairman, in the light of some of the penalties we have been putting in recent legislation, but now that they are equivalent to the I.R.D.I. Act, then I make no objection.

Clause 104 agreed to.

On clause 105—*Prosecution of employee organization*.

Dr. DAVIDSON: This is taken from section 45(1) of the I.R.D.I. Act.

Clause 105 agreed to.

On clause 90—*Right of employee to present grievance*.

Dr. DAVIDSON: Mr. Chairman, this opens up the eighth block of clauses covering clauses 90 to 99. These clauses provide for the establishment of grievance processes within departments and agencies, subject to the legislation, and for third party adjudication of grievances arising out of the interpretation or application of a collective agreement or arbitral award, or out of disciplinary action resulting in discharge, suspension or financial penalty. Under these provisions an employee would have the right to present grievances covering a wide range of matters affecting his terms and conditions of employment. Grievances relating to matters for which another appeal process had been provided by statute, would not be admissible to the grievance process, for example, the appeal processes established under the Public Service Employment Act.

The special status of bargaining agents in relation to grievances would be recognized. Grievances relating to the interpretation or application of a collective agreement or arbitral award would not be admissible unless the bargaining agent give its consent and the employee was represented by the bargaining agent. In addition, no employee organization, other than the bargaining agent, would have the right to represent employees in the bargaining unit where a bargaining agent had been certified.

A grievance could be referred to an adjudicator named in a collective agreement, to a board of adjudication, or to an adjudicator appointed by the Governor in Council on the recommendation of the Public Service Staff Relations Board. Adjudication decisions would be final and binding on the parties.

Before getting into the clause by clause review, members of the Committee may wish to focus their attention briefly on the chart on the easel, depicting the type of grievance process that might be contemplated under the provisions of the bill.

The JOINT CHAIRMAN (*Mr. Richard*): This chart will be inserted as part of today's proceedings.

Some hon. MEMBERS: Agreed.

Mr. LOVE: Mr. Chairman, the chart is headed "Possible Grievance Machinery" because, in fact, the grievance machinery under the provisions of the bill would be governed by regulations made by the Public Service Staff Relations Board which, presumably, would establish minimum standards to which all departmental and agency grievance procedures would have to adhere.

This is the type of machinery that is, at the moment, contemplated. There would be, perhaps, a maximum of four steps in the grievance procedure in a particular department and the employee would have the right to present his grievance at each step. He might start at the level of the local manager in Windsor; failing a settlement of the grievance at that level, he would have the right to present it at step two, which might be the regional director for Ontario, and so on up to the director general of the branch in question, and finally to the level of the deputy head. Adjudication is then provided for, in defined circumstances, and the award of the adjudicator would be final and binding.

Mr. McCLEAVE: The adjudicator, though, would not be part of the department itself in which the grievance was taking place?

Mr. LOVE: No. He would be an independent third party person.

Mr. McCLEAVE: Could the map or sketch not have added on it the steps, one to four, within the department and the fifth one, extra department.

Mr. LOVE: Yes, it would have been clearer if we had indicated this.

Mr. CHATTERTON: By whom is the adjudicator appointed?

Mr. LOVE: There are a number of possibilities provided for in the bill. If the parties to a collective agreement wished to do so, they could name an adjudicator in the collective agreement. Failing that, the employee would have the right to ask for a three man adjudication board, and, if the employer agreed to it, a board could be established. Failing that, an adjudicator from among the group of adjudicators under the jurisdiction of the chief adjudicator, all of whom would be appointed by the Governor in Council on the recommendation of the Public Service Staff Relations Board, would be named to hear the case.

Mr. CHATTERTON: Is there any obligation for the Governor in Council to appoint in such a case?

Mr. LOVE: Yes, sir, there is a provision in the bill which provides that the Governor in Council shall appoint adjudicators on the recommendation of the Board.

Mr. LEWIS: Have you given consideration to placing this power in the Staff Relations Board instead of in the government? I have the same general objection in theory and in philosophy that the ultimate employer is the one who appoints the adjudicators. I suggest you might give the same consideration here as you

have given in other parts of the bill, and put that authority in the Staff Relations Board rather than in the Governor in Council. We jumped something, but since it was raised, I put it in at this point.

Mr. LOVE: Perhaps we could take that up when we reach the relevant clause, Mr. Lewis.

Mr. LEWIS: Some members might say this is a strange role for me but this provides that the employee can have a grievance only if his bargaining agent agrees.

Mr. LOVE: This is on a matter arising out of the interpretation of an agreement.

Mr. LEWIS: Yes, when it arises out of the interpretation of the agreement. It is probably the only way to have order. I have often thought that there might not be harm in lodging the grievance although it should not go to adjudication without the bargaining agents' approval.

Mr. DAVIDSON: It is well to keep in mind here, Mr. Lewis, that it is conceivable that an employee who is not a member of the bargaining unit may be involved here and it would be desirable, in the view of those who drafted this, to ensure that a person who did not happen to be a member of the employee organization, should not have the power to raise—except through the bargaining agent—a grievance with respect to a collective agreement that the bargaining unit had negotiated with the employer.

Mr. LEWIS: Yes, that is in subsection (3). I am not objecting to that. In fact, I am not objecting at all. I am just raising a point on subclause (2): "An employee is not entitled to present any grievance relating to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award unless he has the approval of and is represented by the bargaining agent." What I am asking is whether that is not really placing in the employee's organization a little too great a power? I can see the desirability of saying that the employee cannot go to adjudication which involves complete machinery and expense and all the rest of it, but why should he not be able, even if his organization does not agree with him, to talk it over with the local manager, the regional director or the deputy head and say, I have been done wrong by? It seems to me it may not be a necessary limitation up to the step of adjudication.

Mr. LOVE: This has to be viewed in the light of the possibility of a jurisdictional conflict, a situation involving a bargaining unit for which a bargaining agent has been certified, but in which an insurgent union or an insurgent employee organization is working and organizing. There was some concern, I think, on the part of the employee organizations who were consulted and even on the part of the management representatives, if I may refer to them as such, about the kind of situation that might develop in those circumstances if, without the support of the bargaining agent, employees could lodge grievances relating to an agreement that had been negotiated by the bargaining agent.

I think, Mr. Chairman, that everyone who has worked on this recognizes the difficulty involved and the potential problems that could arise from the power which would be put in the hands of the bargaining agent by this clause. I think other problems would undoubtedly be produced if we went the other direction.

Mr. LEWIS: Would it, if it was limited to the first four steps only, which is the only suggestion I am making here for consideration? Again, I am not saying it dogmatically, but if he were only able, even if the bargaining agent disapproved, to go through the first four steps and if he lost or could not persuade anyone of the justice of his case by then, he would be through. He cannot go to adjudication without the approval of the bargaining agent. Bargaining agents are no more angels than management and representatives of bargaining agents are no more angels than representatives of management. Abuse is always possible of some individual's rights. I just suggest that you might consider giving the individual employee the right to go through the grievance procedure, short of adjudication.

Mr. CHATTERTON: In practice, surely, this would not forbid an employee, even those subject to subclause (2), going to his local manager to discuss some problem. It would be a form of grievance, probably.

Mr. LOVE: It would prevent him from lodging a formal grievance. A distinction is made here between a complaint which any employee may take up with his supervisor and the lodging of a formal grievance in writing under the processes provided for under the law.

Mr. BELL (*Carleton*): I have no doubt that the allegedly aggrieved person will see his member of parliament and the first three steps will be obviated and step four will come into effect.

On clause 91—*Reference of grievance to adjudication.*

Mr. LEWIS: I am sorry, but before we go on, Mr. Chairman, there is no provision here for the bargaining agent itself to lodge a grievance.

Mr. LOVE: Mr. Chairman, you will recall that, in discussing the definition of grievance, there was an indication from the witnesses that consideration was being given to the possibility of defining this in such a manner as to permit an employee to lodge a grievance on his own behalf or on behalf of a group of employees. Mr. Lewis is quite right in suggesting that there is no means provided in the law whereby a bargaining agent, as an institution, could lodge a grievance. There is, however, in section 98, a provision which is designed to provide the bargaining agent with a capacity to protect its interests under an agreement without resorting to the grievance process as such. It provides that where the employer or the bargaining agent has executed a collective agreement or is bound by an arbitral award, and either one feels that obligations entered into by one party or the other are not being lived up to, he may refer the matter to the chief adjudicator who shall personally hear and determine whether there is an obligation as alleged and whether, if there is, there has been a failure to observe or to carry out the obligation.

In other words, the view of the people who worked on the legislation was that if there is a problem affecting the bargaining agent as an institution, rather than have it go up through four levels, it would—

Mr. LEWIS: Go to the top step.

Mr. LOVE: —it would be better really to have it go right to the top and get it cleared up at that level.

Mr. LEWIS: That certainly helps some in this sphere. You see, (b) of 98(1) limits the right of the bargaining agent to lodge a grievance only in cases where an employee cannot do so. You have in practice what they call group grievances.

Mr. LOVE: The group grievance problem would be handled by the amendment to the definition which would permit an employee to lodge a grievance on behalf of a group of employees.

Mr. LEWIS: I will then withdraw my objection.

Clause 91 agreed to.

On clause 92—*Appointment of adjudicators*.

Mr. LEWIS: This is a clause, I suggest, where perhaps consideration could be given to putting the authority to appoint these adjudicators in the hands of the board rather than the government.

Mr. BELL (*Carleton*): I take it that Dr. Davidson will have to get instructions on that.

Dr. DAVIDSON: We certainly would be glad to give it consideration, and we appreciate the point. We think it loads further responsibilities on the board but, I think, there is a valid point of consistency here. The only thing I would mention, Mr. Lewis, is that, perhaps, if you look at the words you will realize it is not quite as it might appear to be on the surface—

Mr. LEWIS: It is on the recommendation of the board.

Dr. DAVIDSON: —because the Governor in Council cannot appoint anybody whom the board does not recommend.

Mr. LEWIS: I know; I saw that.

Dr. DAVIDSON: This is the only point you had on this clause?

Mr. LEWIS: Yes, it is the only point.

Mr. McCLEAVE: I was just going to ask Dr. Davidson how many members of this—this permanent panel of people or permanent officers—is it proposed to appoint?

Mr. LOVE: Mr. Chairman, I do not think anybody has any idea at this point as to how many adjudicators will be required for the system. It is my personal view that, in the first few years of the system, until things settle down, there is likely to be a fairly heavy case load. The simple answer to your question is that no one can really predict at this point what the requirement is likely to be.

Mr. CHATTERTON: It surely will not mean that the Governor in Council may appoint only those persons recommended by the board?

Dr. DAVIDSON: Right.

Mr. LOVE: Yes.

Dr. DAVIDSON: It can refuse them. It can refuse the recommendation of the board but it cannot amend the recommendation of the board. It cannot name somebody the board has not recommended.

Senator DESCHATELETS: In case of refusal, I suppose they supply other names?

Dr. DAVIDSON: That is right.

Mr. WALKER: Is refusal the right word, Dr. Davidson. It says: "The Governor in Council, on the recommendation of the Board, shall appoint such officers", such being the ones who were recommended, I would think.

Dr. DAVIDSON: It still means, as I understand it, that the Governor in Council does have the power to say, we refuse to accept this particular recommendation of the board.

Mr. LEWIS: Is there any difference in principle between appointing the adjudicators and the others where you took the power from the Governor in Council and gave it to the board? I, myself, do not see any difference.

Mr. LOVE: I think, Mr. Chairman, it would be wise for us to take a look at this, if the Committee would agree. I would like to have a word with the law officers about the point that has been raised.

Mr. LEWIS: When you do that you have the same problem we had earlier about the removal on the unanimous recommendation of the board.

Mr. LOVE: Yes, I was going to mention that.

Mr. LEWIS: You will have to make that change as well.

Clause 92 stands.

On clause 93—*Composition of board of adjudication.*

Mr. KNOWLES: Mr. Chairman, I have been looking at this in conjunction with clause 96. I do not think there is any problem but, perhaps, I should raise it. A board of adjudication consists of three members and since there is no provision about a quorum or anything of that sort, the assumption is that it can act only if all three of them are present; and similarly that the decision referred to in clause 96(2), being a decision of the majority, means two out of three, but they all have to be present.

Mr. LOVE: Yes, that certainly is the assumption, sir.

Mr. KNOWLES: We had some uncertainty, in another case a while back, about this quorum.

Mr. LOVE: That was on the question relating to the unanimous recommendation of the Board. We have not had a final opinion from the legal people in the Department of Justice about this, but I did have some discussions yesterday afternoon and it would appear that "on the unanimous recommendation of the Board" would have to be construed in the light of the earlier sections which say that the Board, for the purposes of any decision, consists of the chairman or the vice-chairman and at least one member from each side. So a unanimous recommendation would really require the support of the chairman or vice-chairman, whoever was sitting in the chair, plus a minimum of one representative from both sides.

Senator DESCHATELETS: Why do you not say it needs a quorum of two?

Mr. LOVE: The chairman, plus two—one from each side.

Mr. LEWIS: What they are telling you is that it means the particular panels sitting on the matter; it does not mean all the members of the board.

Mr. LOVE: That is right. There would be problems, I think, if we tried to move to the concept of total membership of the board because, at any given point in time, it is quite conceivable that one member of the board may be off on an extended holiday or ill.

Mr. LEWIS: More likely ill.

Mr. LOVE: It would restrict the capacity of the board to act with promptness on the cases which came forward.

Mr. KNOWLES: Let us get back to the board of adjudication which consists of three people, the adjudicator and one member nominated by each side. I take it that it is not a proper meeting unless all three are present?

Mr. LOVE: I would think that is so, yes, sir. I should not think there would be any question about that. Clause 93 says: "the board shall be composed of three members", and I assume that a board, when making a decision, is simply not a board unless it is composed of three members.

Mr. KNOWLES: Two can make the decision but all three have to be present.
Clause 93 agreed to.

On clause 94—*Notice to specify whether named adjudicator, etc.*

Mr. LOVE: Mr. Chairman, I would like to just mention in passing that we think we have discovered a series of very minor drafting errors. The word "person" is referred to in a number of these clauses instead of "employee". I think this is the result of an earlier draft in which an attempt was made in this clause to distinguish between an employee and a person. Subsequently, for purposes of the bill that went before the house, the legal draftsmen decided on another device whereby an employee, for the purposes of the grievance clauses, is defined in such a way as to include a person who would be an employee but for the fact that he had been identified as a person employed in a managerial capacity. It may be that the legal officers will suggest that the word "person", wherever it appears in these clauses, be changed to "employee". I would not think that that would require the standing of the clauses but I thought I should mention it.

Clause 94 agreed to.

On clause 95—*Compliance with procedures in grievance process.*

Mr. CHATTERTON: On subclause (1), does it mean there that the grievance cannot go to the adjudicator until he has gone through all those first four steps?

Mr. LOVE: That is right, sir.

Mr. BELL (*Carleton*): Or the statutes provided for in the collective agreement.

Mr. LOVE: That is right. I think the point here is that—and this would be standard industrial practice, I think—until such time as the parties at the various levels have had a full opportunity to sort out the problem, adjudication is not possible.

Mr. LEWIS: Suppose both parties agreed to skip some of the steps?

Mr. LOVE: This could be done, sir.

Mr. LEWIS: It cannot under clause 95(1).

Mr. LOVE: I think the clause setting forth the regulation-making powers of the board make it clear that it is contemplated that the employer or the parties in some circumstances, should be able to arrange for some of the steps to be skipped.

Mr. LEWIS: Where is that?

Mr. LOVE: In clause 99(b). It is quite possible that on certain types of grievances it would be undesirable to have the matter dealt with at, let us say, all four levels. It might make sense to have certain types of grievances handled from the outset at the level of the deputy head.

Mr. LEWIS: Clause 99 gives the authority to the Staff Relations Board. Say, you have a very practical matter, such as someone messing up the grievance or something arising in the grievance procedure which makes it desirable to go straight to the deputy head and everybody agrees that is the wise thing to do, why can they not do it? When you enshrine it in a statute and say, you cannot go to adjudication unless you have gone through every step, is it not possible to add—I am not wording it—"except if both parties agree otherwise". If the employer and the bargaining agent agree to drop the first three steps, why should they not be able to do so?

Mr. CHATTERTON: I am thinking, also, of the practical procedures whereby if you have to go through all four steps, there is a question of time, even if you can afford it. In practice, I would say, that if a grievance arises with an employee, he could refer directly to the deputy head, who would most likely refer it down to the local manager's level. He may not but in practice, I think, it could well be done if allowed by statutory right, to go right to the deputy head initially. He could, if necessary, make a decision if he wished to, or refer it back.

Mr. LOVE: Mr. Chairman, I think the answer to Mr. Chatterton on that one is that it is generally considered desirable in labour-management relations to try to settle the matter as close as possible to the level at which the problem occurs. I would not like to see a provision in the statute which would make it possible for the employee to go to the deputy head at the outset because I think this would enable us to get into a situation where a great deal of time was consumed because matters were being referred to the deputy head and back down to the first level. Generally speaking, I think we should observe the principle that the place to start is as close as possible to the level where the problem has arisen.

Quite frankly, I do not see any real reason why certain steps in the process should not be skipped if the parties are agreed that they should be skipped. I would like to take advice on that matter, if I might.

Mr. LEWIS: The only suggestion I am making, following up Mr. Chatterton's comment, is that subclause (1) might have words added to it: "Unless the employer and the bargaining agent agree otherwise" or something like that.

Clause 95 stands.

On clause 96—*Decision of adjudicator*.

Mr. LOVE: Mr. Chairman, in clause 96(5) there has been some criticism by at least one of the employee organizations which, upon review, we consider valid or justified. Clause 96(5) refers to an employee organization; it has been suggested that this should really refer to bargaining agent because only a bargaining agent could have the kind of obligations which this subclause assumes. We would like to suggest that the words "employee organization", where they appear in this subclause, be amended to read "bargaining agent", in both cases.

Mr. WALKER: I move that on line 24 of subclause (5) the words "employee organization" be replaced by "bargaining agent"; also in line 26.

Mr. LEWIS: I second the motion.

Amendment agreed to.

Mr. CHATTERTON: Why should the decision of the adjudication officer or board be sent to the board rather than directly to the parties involved?

Mr. LOVE: Mr. Chairman, I think this is a very good point. The principle reason for requiring it to be sent to the board is that people working on the legislation thought it would be desirable to have a central source of reference where all adjudication decisions could be kept on file, catalogued and made available to the parties. There is a jurisprudence of sorts that is important here and we felt that, administratively, it would make good sense to have all adjudications filed with the board.

Mr. CHATTERTON: Would it not make more administrative sense to require that the adjudicators send a copy of the decision?

Mr. LOVE: I must say that I think this is a good suggestion. In discussing this last night the point came up. I see no reason why the basic purpose to which I referred would not be as well served by an amendment that would require the adjudicator to send copies directly to the parties but also to file a copy with the board.

The JOINT CHAIRMAN (Mr. Richard): We will stand clause 96 for that change.

Clause 96 stands.

On clause 97—*Where adjudicator named in collective agreement.*

Mr. BELL (Carleton): I think there are likely to be some problems arising out of this. Are you suggesting that the individual may have to pay costs? That certainly is not a notion which has been accepted in the public service previously.

Mr. LEWIS: Nor in any collective agreement in industry.

Mr. BELL (Carleton): What is the justification for this?

Mr. LOVE: Mr. Chairman, I should mention that on clause 97(2) consideration is being given to an amendment really based on a suggestion, I think, made by the Canadian Labour Congress, when it was before the Committee. The amendment would make the subsection read: "Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, the person—that would read "employee"—whose grievance it is or where that employee is represented by his bargaining agent, the bargaining agent is liable to pay and shall remit to the board such costs...". I think it is general practice, in the private sector, for the costs of adjudication to be shared. This is generally regarded as an important principle if only for the reason that, if there is no obligation in terms of costs, the resort to adjudication is likely to be excessive and, perhaps, even abused.

Mr. BELL (Carleton): I don't think we should put a means test on adjudication.

Mr. LEWIS: Although I agree with the point Mr. Bell is making, I would like to divide it into two parts. I think there is another reason normally, in industry the union pays the expenses of its member on the board, the employer pays the expenses of his member on the board and they share the expenses of the chairman. In this case your chairman will be, under subsection (2), if I understand it correctly, an adjudicator appointed either by the Governor in Council or by the board, presumably at a salary.

Dr. DAVIDSON: Not always.

Mr. LEWIS: Under subclause (2)? I am not talking about subclause (1), which is an adjudicator established under the agreement. There is a difference between the bargaining agent being required to carry the cost and the aggrieved employee being required to carry it; it is the latter to which, I think, Mr. Bell objects, and I would take very strong exception to placing the burden of costs on the aggrieved employee. Under any circumstances it cannot be justified. Since he cannot go to adjudication except with the approval of the bargaining agent, I think the entire load should be carried by the bargaining agent and never by the employee.

Mr. LOVE: The effect of the proposed amendment would be to place the financial obligation on the bargaining agent except in circumstances where there was no bargaining agent.

Mr. LEWIS: Under those circumstances, I think the employer should pay. Seriously, you make it impossible. Any one of us who practices law comes across every day people who simply cannot afford legal action and until such time as we pay our civil servants much more than we are likely to pay them, I think if he has a grievance there should be no means test for him.

Dr. DAVIDSON: Mr. Lewis, despite my past record, I am not trying to advocate the insertion of a means test here. But I am a little bit worried about one of the possible consequences of what you are talking about. I am not certain that this applies but I would like to raise the question anyway. Would the effect of what you are suggesting now be to make a distinction between the employee who is not a member of an employee organization, who would get his adjudication done for him free, and the employee who is a member of an employee organization, who would be required to call upon his employee organization.

Mr. LEWIS: He would also get it free.

Dr. DAVIDSON: But would his employee organization have to pay?

Mr. LEWIS: Yes, because he has a bargaining agent. He has all the advantages and disadvantages, if you like, of a bargaining agent. He pays dues to the bargaining agent. The reason for paying dues is to receive this kind of service.

Dr. DAVIDSON: Is it conceivable that this formula would result in the charge being made that the legislation was loaded in favour of remaining not a member of the bargaining unit?

Mr. LEWIS: There is that danger, and that is a valid point.

Mr. CHATTERTON: Going back to the member who is not a member of the bargaining unit, can he go to final adjudication merely on his request?

Mr. LOVE: Just on matters arising out of a disciplinary action involving discharge, suspension or financial penalty. Generally speaking, you can go to adjudication only on a matter arising out of the interpretation of a collective agreement and in those circumstances there would be a bargaining agent.

Mr. CHATTERTON: Would not any employee who was in that position, who has a grievance with regard to those three points, be stupid not to go to the final point knowing it is not going to cost him any money. It might be quite frivolous but yet he would have the opportunity of going right to the adjudicator, costing a lot of money, knowing he cannot lose because it is not going to cost him

anything. Could there not be some provision whereby the board could eliminate such appeals where it considers them frivolous?

Mr. LEWIS: There is a point, though, and the only reason I am raising it, Mr. Chairman, is that if you are talking about employees who were, of their own will, outside the bargaining unit, that is a different story. But every employee who is in an area where there is a bargaining agent—where there is collective bargaining at all—but is outside that is outside either by provision of the statute in the definition of employee or by designation of the board, so that his exclusion is enforced on him by the statute. Am I not right?

Dr. DAVIDSON: He is outside the bargaining unit?

Mr. LEWIS: Yes.

Dr. DAVIDSON: Under those circumstances.

Mr. LEWIS: And, therefore, cannot have access in the same way. The only reason I am concerned is that he should have to pay out of his own pocket because we are forcing him out of the area which would enable him to get the service of the bargaining agent. It is not a choice of his.

Mr. CHATTERTON: It would eliminate the question of frivolity, though.

Mr. LEWIS: No, it does not eliminate that. The difficulties Dr. Davidson and Mr. Chatterton raised are valid. I am not denying that.

Mr. CHATTERTON: It ought, itself, to give him the power to adjudicate as to the expenses to be charged to such an employee.

Mr. LOVE: I think there would be some virtue in having, at least, nominal costs charged in these circumstances.

Just on the point made by Mr. Lewis, as I understand the bill, and it gets a bit complicated on this point, it would be not only the employees who had been excluded because of their managerial responsibilities who would have the capacity to go as individuals to the board on matters relating to discharge, suspension and financial penalty. An employee in an occupational group that did not have a certified bargaining agent would also have the right to proceed to adjudication on these matters.

Mr. HYMMEN: Mr. Chairman, on Mr. Lewis' point, the employee who is not out of the bargaining unit voluntarily and through no fault of his own, under clause 90 (3), may request and attain the assistance of a bargaining agent.

Mr. WALKER: He may not obtain it.

Mr. HYMMEN: No; he may request it.

Mr. WALKER: They may refuse to represent him.

Mr. HYMMEN: If it is not through his circumstances and if the exclusion is not voluntary, there is always that possibility of obtaining assistance.

Mr. LEWIS: Perhaps the officers here will take a look at it.

Mr. BELL (*Carleton*): I think this should stand until the amendments come up, but I would certainly like to say that I do not believe a test of frivolity ought to be the financial means of the person applying for adjudication.

Clause 97 stands.

Clause 98 agreed to.

On clause 99—*Authority of Board to make regulations respecting grievances.*

Mr. BELL (Carleton): I have two comments on clause 99. It seems to me that the lead clause is very broad. It empowers the board to make regulations in relation to the adjudication of grievances. This is absolutely wide open.

Secondly, I would like to enquire what the provisions may be in the Regulations Act about separate regulations made by a board to be laid on the table or what other provision there is for adequate publicity to these regulations?

Mr. WALKER: Mr. Chairman, does this power given to the board to make regulations supersede any of the other specific clauses dealing with—

Mr. LOVE: I would think so, Mr. Chairman. I think the board would have power to make regulations. It is really in relation to the procedures for the presenting of grievances, the adjudication of grievances.

Mr. LEWIS: Mr. Chairman, through you to Mr. Love: Does this not wash out the grievance procedure in the collective agreement? I think this is another erosion of the collective bargaining process by attempting to dot every "i" and cross every "t". All of the things which you give the board the power to make regulations on in clause 99 are normally part of the grievance procedure written into a collective agreement. The procedure will differ from collective agreement to collective agreement, depending upon what the parties agree upon. Could this not be made subject to this, that it applies only where the collective agreement does not provide grievance procedures.

Mr. LOVE: Mr. Chairman, rightly or wrongly, it has been felt that there should be certain minimum standards applied so that there is a reasonable degree of consistency in the grievance procedures applying to public servants across the public service. I think—among other reasons and this may not be a very good one from Mr. Lewis' point of view—it would be desirable from an administrative point of view to have a reasonable degree of consistency in the grievance procedures. We are contemplating here a system of bargaining which is likely to involve a fairly substantial number of bargaining units which are horizontal and national in character, so that it is conceivable if the matter were left to the collective agreement that we would have a significant number of different grievance procedures applying in any one department, and the feeling has been that this might produce a degree of administrative chaos, at least, in the early stages of the system.

Mr. LEWIS: Have you not been in the service long enough not to be worried about that?

Mr. LOVE: The answer to that is yes.

Mr. LEWIS: Mr. Chairman, I just simply cannot agree. If I may, without presumption, say that the way you avoid this chaos is by you people on the Treasury Board working out the standard model grievance procedure which you present at the bargaining table, from your experience, and I am sure if it is one that fits the situation, it will be accepted. Then gradually you work, as a result of bargaining, into a grievance procedure across the country which is consistent by the Treasury Board people doing the negotiating, presenting a model along the lines that you think is administratively possible. Here, again, is something you

are taking away from the bargaining table. You give the Staff Relations Board the right to write the grievance procedure for every collective agreement. I think where there is no grievance procedure in a collective agreement, these regulations should apply, but the parties should be able to make their own grievance procedures.

Mr. CHATTERTON: Mr. Chairman, I was thinking that if this were amended so as to apply only in the case where the agreement itself does not specify the procedure and, secondly, that these regulations apply until such time as the first agreements are concluded, it would set a pattern for the initial period until the agreement itself is concluded.

Mr. LOVE: Mr. Chairman, I think we would like to examine this suggestion. Clause 99 stands.

Dr. DAVIDSON: Before we leave, Mr. Chairman, could I go back to Mr. Bell. We have the Regulations Act here. I would hate to try to interpret them. The definition of "regulation" in the Regulations Act says that it is: "a rule, order, regulation, by-law or proclamation (i) made, in the exercise of a legislative power conferred by or under an Act of Parliament," by a variety of authorities including "a board, commission, corporation or other body or person that is an agent or servant of Her Majesty in right of Canada" which I think this probably is not, although I do not know. It also says: "but does not include (v) a rule, order or regulation governing the practice or procedure in any proceedings before a judicial tribunal." It would be a matter of interpretation on which I could not venture an opinion.

Mr. BELL (*Carleton*): Perhaps, Dr. Davidson, you would have this examined over the week end. I am as conscious as you of the fact that in clause 19(2) you provided for publication in the *Canada Gazette* specifically. I certainly believe that if there are to be regulations at all, that these should have some technique of publicity.

The JOINT CHAIRMAN (*Mr. Richard*): There are only two clauses left of a general nature, 100 and 107.

Mr. KNOWLES: I have an amendment to move to Schedule A.

The JOINT CHAIRMAN (*Mr. Richard*): All right; we will meet again at 3.30 this afternoon.

The meeting is adjourned.

AFTERNOON SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order, gentlemen. We will now start the meeting.

On clause 100—*Orders not subject to review by court.*

The JOINT CHAIRMAN (*Mr. Richard*): Are there any objections to clause 100 before we get into the formalities?

Clause 100 agreed to.

On clause 107—*Evidence respecting information obtained under Act.*

Dr. DAVIDSON: This is the provision, Mr. Chairman, which corresponds to sections 81 and 83 of the Ontario Labour Relations Act, and there is some wording corresponding to it in the I.R.D.I. Act, providing that reports and proceedings before conciliation boards are not subject to being used as the basis for evidence in any civil action. I think the wording of clause 107 goes somewhat beyond that, but the principle is the same.

Mr. BELL (*Carleton*): How far does it go beyond the other wording?

Dr. DAVIDSON: It refers to the arbitration tribunal, Mr. Bell, as well as to the question of the adjudicator.

Mr. BELL (*Carleton*): What is the section closest to it in the I.R.D.I. Act?

Dr. DAVIDSON: Section 37, which reads as follows: "No report of a Conciliation Board, and no testimony or proceedings before a Conciliation Board are receivable in any court in Canada except in the case of a prosecution for perjury."

Mr. LEWIS: You have that one.

Mr. BELL (*Carleton*): That was in a previous section.

Mr. LEWIS: Dealing with the conciliation board, I think.

Dr. DAVIDSON: I could read you, Mr. Bell, sections 81 and 83 of the Ontario Labour Relations Act.

Mr. LEWIS: Why?

Mr. BELL (*Carleton*): Yes; would you put those other sections on the record?

Dr. DAVIDSON: Section 81 of the Ontario Labour Relations Act reads as follows: "No member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit respecting information obtained in the discharge of their duties under this Act."

Section 83 is about a page and a quarter long.

Mr. BELL (*Carleton*): I assume it is to the same effect.

Dr. DAVIDSON: It covers a great many things including secrecy on union membership, non-disclosures, competency as witness, but there is one section which says: "The Chairman or any member of a conciliation board is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information or material furnished to or received by him, any evidence or recommendation submitted to him or any statement made by him in the course of his duties under this Act." That is section 83(2)(c) of the Ontario Labour Relations Act.

Mr. LEWIS: Then subsection (3) is also in the same general field.

Dr. DAVIDSON: Subsection (3) reads as follows: "No information or material furnished to or received by a field officer under this Act and no report of a field officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no field officer is a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report."

Mr. LEWIS: You cannot really have discussions if they can be dragged into a court.

Clause 107 agreed to.

On clause 108—*Payment of witness fees.*

(*Translation*)

Mr. LACHANCE: Was clause 104, carried?

The JOINT CHAIRMAN: Yes, it was carried.

(*English*)

Dr. DAVIDSON: This corresponds, Mr. Chairman, to section 65 of the I.R.D.I. Act.

Senator MACKENZIE: Could I ask for information, Mr. Chairman? What is the witness fee? Have you any idea?

Dr. DAVIDSON: I have not the faintest idea.

Senator MACKENZIE: I ask this because sometimes it is quite inadequate at \$6.

Mr. LEWIS: It is inadequate. It would be the actual cost of transportation plus, I think, \$6 a day, or something like that.

Mr. MCCLEAVE: It never is the actual cost of transportation.

Dr. DAVIDSON: Mr. Chairman, inadequacy is the principle that we wish to accede to here.

Senator MACKENZIE: I could not agree more that you are—

Clause 108 agreed to.

On clause 109—*Oath or affirmation to be taken.*

Dr. DAVIDSON: May I draw here to your attention the distinction between persons who are appointed under this act and persons who, under a previous section, are appointed under the provisions of the Civil Service Act. The requirement to swear this oath does not apply to the secretary of the board and other officers and employees who, under clause 17(2), are appointed under the provisions of the Civil Service Act. They are required to swear an oath, as I recall it, under the Civil Service Act. This present provision applies to persons who are not appointed under the Civil Service Act, but who are appointed to any duty under the provisions of this act itself.

Mr. LEWIS: There is a note in the Public Service Employment Act, is there?

Dr. DAVIDSON: Yes. I am told there is.

Mr. LEWIS: I have never found a witness who takes an oath to be more truthful as a result of it.

Mr. BELL (*Carleton*): I do not think I would want to agree with that.

Mr. LEWIS: I am glad that you are—

Mr. BELL (*Carleton*): I have never examined a witness who did not take the oath.

Mr. KNOWLES: Are you suggesting that he is just as truthful if he does not?

Mr. LEWIS: Yes.

Mr. BELL (*Carleton*): Personally, Mr. Chairman, I would hope that some day we could tidy up this whole situation in the various acts and get an oaths of office act which would cover the whole situation and not have to put this sort of thing in each act.

(*Translation*)

Mr. LACHANCE: I was under the impression that we were on 109, I was under the impression, Mr. Chairman, in view of the fact that we are referring to schedule C, that there had been some question of an amendment to add at the end of schedule C, "and of which I took cognizance"—In another words, schedule C—

(*English*)

Mr. LEWIS: But it says that already. It says "—to the best of my skill and knowledge."

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Schedule C, yes.

Mr. LACHANCE: Yes, Mr. Lewis, you are a lawyer. A person who takes an oath, here, swears to fulfill "to the best of my skill and knowledge the duties," but under the law, is it knowledge? I am speaking of the act itself and it is important that a person swearing to fulfill the duties according to an act will declare "of which I have knowledge", if afterwards we want to object this oath.

Mr. LEWIS: In other words, in case they did not know.

Mr. LACHANCE: So a person will not be able to say: "I did read the Act".

(*English*)

Dr. DAVIDSON: Mr. Chairman, I think that it would be a little dangerous to put in the words "et dont j'ai pris connaissance," in the place where Mr. Lachance has suggested, without running the risk of the interpretation that the extent of the responsibility of the person taking the oath is limited to the provisions of the law of which he has knowledge.

If you want to accomplish what Mr. Lachance is suggesting it seems to me that it would be necessary to have the oath worded as it is now and to have a further statement that "I take this oath in the full knowledge of what my duties are, under the Public Service Staff Relations Act". Because this should not be worded in such a way as to limit the responsibility of the person taking the oath to those duties of which he claims knowledge.

(*Translation*)

Mr. LACHANCE: I was just submitting this point, Mr. Chairman, I did not have any intention of making an amendment to it, except after having more information from people like Mr. Davidson. All the same, it seems to me that if we want to have a person to take an oath, there must be a reason for it, if subsequently, we want to use this oath to institute proceedings against a person who has violated, let's say, who has not fulfilled the duties of the position, of his position. You must admit that this person could probably say: "I never read the Act." It might not be the case, Mr. Chairman, of senior officials, but I am speaking of junior officials too, who have—of junior public servants in this large office, who also have some importance. One might simply say: "Well, did

you take an oath before fulfilling these duties?" That is why I believe it might be wise that any person who is called upon to take an oath, as this states that they were in full knowledge of the Act before swearing. It seems to me to be logical, that a person who has not read the Act should not be called upon to swear.

(English)

Mr. BELL (*Carleton*): Mr. Chairman, I have spent many hours on this bill, but I would hate to be called upon to swear that I had full knowledge of it. If I had to swear that, I am afraid I would have to decline the oath.

Mr. TARDIF: I do not think Mr. Lachance said "full knowledge"; he said, "after having read it". That does not mean that he would remember everything.

(Translation)

Mr. LACHANCE: If I am told that the person involved must read the Act before taking the oath, I am satisfied.

(English)

Dr. DAVIDSON: Mr. Chairman, I will be glad to check that and advise the Committee later.

Mr. LEWIS: If I might ask, can he not be given his duties under the Public Service Staff Relations Act without having read the act?

Mr. McCLEAVE: I wonder if the honourable member for Russell, whose observations about reading this act, and whose visits are as frequent as Haley's Comet and about as long—

Mr. TARDIF: I am sorry I cannot hear you. You are probably making remarks about me, because I heard the word "Russell". Will you say it a little louder?

Mr. McCLEAVE: Yes. I was going to ask the honourable member for Russell, who has honoured us by an appearance, whether he means that by reading Bill C-170 he could take this oath and affirmation, or whether there is a substitute.

Mr. TARDIF: In the first place, I must correct your first remark that I am honouring you by my presence. The only reason why you do not see me here oftener is that you do not come often enough.

The JOINT CHAIRMAN (*Mr. Richard*): Order.

Mr. TARDIF: With regard to being able to take an oath after reading that act, certainly I could take an oath that I had read it if I had read it, and I think I have read about as much of it as you have.

Mr. McCLEAVE: This does not seem to answer the question, and it seems to be a rather personal quarrel that the member of Russell has taken upon himself.

Surely we have an oath and affirmation which mean something to the public servant who is asked to take them. I suggest that the clause stand until we can look at it again, and perhaps the honourable member for Russell will be at the next meeting.

Mr. TARDIF: That, of course, is a decision that had been taken before you mentioned it.

Mr. LEWIS: I am back in the House of Commons!

The JOINT CHAIRMAN (*Mr. Richard*): I have this position and I would like some peace.

Mr. TARDIF: Let us not have peace at any price, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): No, I think you have had a good try.

Mr. McCLEAVE: For a man who is here so rarely, he has had a very good try, indeed.

Mr. LEWIS: Leave it alone.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 109 stands for further study of schedule C.

Clause 109 stands.

On clause 110—*Facilities and staff*.

Mr. KNOWLES: Is this necessary, Dr. Davidson?

Dr. DAVIDSON: I have found myself asking that, too.

Mr. LEWIS: Hear, hear.

Mr. KNOWLES: If the board is stupid enough to ask these people to work out in the cold—

Mr. LEWIS: I think it was probably put there by the Treasury Board to make sure that it did not have the responsibility, and that is all.

Dr. DAVIDSON: It might be taken as a direction that the expense of all of this shall be included as part of the expenses of the board in making its financial requirements known to the government of Canada; but apart from that—

Mr. KNOWLES: Have we provided space for the board anywhere in this act?

Dr. DAVIDSON: No.

An hon. MEMBER: Let us overlook it.

Mr. KNOWLES: No, I move that clause 110 be deleted.

Pardon me, on a point of order, I cannot do that. I can only vote against it.

Mr. BELL (*Carleton*): I had it pointed out to me by Mr. Knowles at one time in the House that you do not move anything to be deleted.

Mr. KNOWLES: I beat you to it, Dick. You can put it that I am going to vote against it.

Mr. LEWIS: Mr. Chairman, should the officers not be given a staff? Should we not have the opportunity to ask somebody about it?

Mr. KNOWLES: All right.

Mr. LEWIS: Could we not ask the drafters about it? They may have a reason; I do not know.

Mr. KNOWLES: It would be odd—

Mr. LEWIS: I cannot think what it would be.

Mr. KNOWLES: It would be odd if the arbitration tribunal had offices and the board did not.

Clause 110 stands.

On clause 111—*Application of Public Service Superannuation Act*.

Mr. BELL (*Carleton*): When would you anticipate that the Governor in Council would otherwise order, Dr. Davidson?

Dr. DAVIDSON: You might have a person who is accepting an appointment to the board, and you might have a situation where that person did not wish to be covered, as well as a situation where the person of choice would be available only if he could be assured of some pension protection during the period that he is serving. Here we have to think of persons who are going to be members of these boards and tribunals as well as persons who are going to be appointed on an ad hoc basis.

Mr. LEWIS: I know nothing about this area, really, but is it not possible to leave it to the person concerned who would have the option of either joining or not joining, as he wishes?

Dr. DAVIDSON: In fact, this is, in effect, what this accomplishes indirectly, Mr. Lewis.

Let me explain what would happen if this clause were not here. If this clause were not here, the Governor in Council, even in the absence of this clause, could act under the Public Service Superannuation Act to include any group or class of persons as a whole who might wish to be included, but he could not include one individual in that class of persons and not include another individual. For example, if you had a public service staff relations board—and I assume this for the moment for the purposes of this argument—where all of the ten members of the board were full time persons, in the absence of this clause, the Governor in Council could include all ten of them under the Public Service Superannuation Act, or include none of them, but he could not include some and not include others.

This provision makes it possible for the Governor in Council to conform to the wishes of each of the individuals who may or may not wish to be included under the Public Service Superannuation Act.

It may very well be the case that the representatives of the employee interests on the board will wish to be provided with some assurance of pension protection, in which case they could be covered. On the other hand, it may be that certain employer representatives on the board would not wish to be covered.

Mr. BELL (*Carleton*): Being already covered.

Dr. DAVIDSON: Being already covered, or having arrangements which lie outside of the Public Service Superannuation Act. We may be bringing in somebody from outside who, for his own reasons, does not wish to make contributions. You may have a retired civil servant, for example, who has made all the contributions that he is required to make and who does not wish to have his pension abated by the amount he receives by way of remuneration under this act; he could opt to remain out.

Senator DESCHATELETS: Does this imply that the person to be appointed would be given an option before appointment?

Dr. DAVIDSON: That is, in fact, how it is intended to make it work.

Mr. LEWIS: You say that that is the practical effect, if read together with the Superannuation Act?

Dr. DAVIDSON: Correct.

Mr. LEWIS: "A person appointed under this Act" does not mean merely the members of the various boards or tribunals?

Dr. DAVIDSON: No.

Mr. LEWIS: Would it not also include all the staff?

Dr. DAVIDSON: No, sir. If you look at clause 17(2) you will see that the secretary of the board and other officers and employees shall be appointed under the provisions of the Civil Service Act, and they are automatically covered by supernnauation. It is only those people who are appointed by Order in Council or on some temporary basis where this question arises of their being excluded, or being included, on an *ad personam* basis.

Mr. LEWIS: The regular staff is going to be appointed by the public service commission?

Dr. DAVIDSON: That is correct. This clause does not apply to the employees who are appointed under the provisions of the public service employment act.

Clause 111 agreed to.

On clause 112—*Limitation respecting matters involving safety or security of Canada.*

Dr. DAVIDSON: This clause ties back, Mr. Chairman, to the reference to clause 112 in the clause 90(2) which has already been dealt with by the Committee, and provides, in effect, that an employee is not entitled to present a grievance relating to any action taken pursuant to an instruction, direction or regulation given or made as described in clause 112. Clause 112 provides, in effect, that nothing in this or any other act shall be construed to require an employer to do or to refrain from doing—and that would include a disciplinary action—anything contrary to any instruction, direction or regulation given by the government of Canada as distinct from the employer, in the interests of the safety or security of Canada, or any state allied or associated with Canada.

The effect of that is that where the government of Canada gives a direction that the employer shall do, or not do, something relates that direction to the safety and security of Canada, or allied or associated states, then that action, in effect, stops the carrying out of the grievance procedure.

Mr. BELL (*Carleton*): The only observation that I would like to make in connection with this is that I hope that the provisions of this particular section will be drawn to the attention of the Royal Commission headed by Max MacKenzie and including the Honourable M. J. Coldwell, and that they may have an opportunity to look at this in the light of the other aspects which are involved.

Mr. LEWIS: My only concern about this section, the necessity for which I recognize, is that it could be applied in such a way that it will be the government and not the staff relations board which will designate the employees to be excluded. The government can send the staff relations board an order, or an instruction saying, "We want you to make darned sure that such and such shall not be written in any bargaining unit and we make this instruction for the safety and security of Canada."

Dr. DAVIDSON: I think, surely, though, that is something which must be with the Governor in Council and not with any board. The factors might not be such that they could be disclosed to a board at the particular time.

Mr. LEWIS: I said what I did in the hope that it will not be used in that way.

Dr. DAVIDSON: Personally, I think it would be used responsibly, but I do emphasize again—

Mr. LEWIS: Even by the present government?

Dr. DAVIDSON: Yes, even by the present government. There are some rare occasions when I think they show some discrimination!

Mr. KNOWLES: The civil service does not want them to.

Clause 112 agreed to.

On clause 113—*Exclusion of corporations from Part I of Industrial Relations and Disputes Investigation Act.*

Dr. DAVIDSON: Clause 113, Mr. Chairman, consists of two subclauses, one of which is comprehensible and the other incomprehensible.

Mr. LEWIS: That is a better average than most.

Mr. KNOWLES: We are too good to Dr. Davidson.

Dr. DAVIDSON: I must say that I am shocked to think that the members of this Committee would not understand at least the provisions of subclause (1), for that is the one I would regard as being easy to understand.

Mr. KNOWLES: You explained it to us before on an earlier clause.

Mr. DAVIDSON: This, in effect, narrows the provisions in the I.R.D.I. Act by which the Governor in Council can exempt corporations from the provisions of that act, and limits the power to exempt to those corporations which do not have the full authority over determining their own conditions of employment. The escape hatch from the I.R.D.I. Act is very substantially closed by subclause (1).

Subclause (2), which I have already asked the Department of Justice people to try to reword and simplify, merely says that where the Governor in Council in future removes a corporation from the I.R.D.I. Act it must put it under this act. It goes on then to say that where the Governor in Council before the coming into effect of this act has already excluded a corporation from the I.R.D.I. Act—and the N.R.C. is the only example—and the Governor in Council, having done that, then decides to revoke the order of exclusion, the effect of that revoking of the order of exclusion is to place that agency back under the I.R.D.I. Act, automatically; so that there can be no agency or corporation established to perform any function or duty on behalf of the government of Canada that will not fall under one or the other piece of legislation, unless the legislation by which that corporation was created contains a clause saying that, notwithstanding the provisions of these two acts, this corporation does not come under either of them.

The JOINT CHAIRMAN (*Mr. Richard*): Do you want this clause to stand?

Dr. DAVIDSON: I would like to have subsection (2) stand.

Subclause (1) of clause 113 agreed to.

Subclause (2) of clause 113 stands.

On clause 114—*Expenditures.*

Mr. KNOWLES: This bows to the motion that Parliament has control of expenditures.

Dr. DAVIDSON: Yes; but I would not read too much into this, Mr. Knowles, if I were you.

Mr. McCLEAVE: Especially after the speech you made the other day in the Public Accounts Committee, Dr. Davidson.

Clause 114 agreed to.

On clause 115—*Annual report to Parliament*.

Mr. WALKER: You had something on this, Mr. Bell.

Mr. Bell (*Carleton*): Yes, I think I has raised earlier whether there were...

Dr. DAVIDSON: Yes under clauses 4 and 5, I think you refrred to it, if my notes are right.

Mr. BELL (*Carleton*): Yes; whether there ought to be a specific definition of any of the deletions or additions or transfers reported separately in the report to parliament.

Dr. DAVIDSON: From the schedules?

Mr. BELL (*Carleton*): Yes; it relates to our discussion earlier on clauses 4 and 5 which deal with additions, transfer and deletions in the schedules. These do not seem to have any requirement that there be a report to parliament that this has been done. I had thought, at the time when we were discussing that, that perhaps we should spell out in this clause that the report to parliament ought to include what had been done under clauses 4 and 5.

Dr. DAVIDSON: Has the Committee a preference whether it should be included in clause 115 or included in clause 5 itself?

Mr. BELL (*Carleton*): So long as it is included in a report to Parliament I could not care where it is.

Dr. DAVIDSON: I would be very glad to undertake to obtain the views of the department of Justice people on where this can best be inserted as a requirement.

Mr. BELL (*Carleton*): Yes.

Dr. DAVIDSON: I do not think there will be any difficulty.

Mr. BELL (*Carleton*): The only point I have is that I do not want to suddenly discover, two or three years afterwards, that there has been an amendment or a deletion and it has not been reported in any way to parliament.

Senator DESCHATELETS: Do you not think it would be easier to find in clause 115?

Mr. BELL (*Carleton*): I think clause 115 is probably the best place.

Dr. DAVIDSON: Could I ask a supplementary question, Mr. Chairman—and I am not using the parlance to which you gentlemen are accustomed in Parliament—Would you prefer to have this in the annual report rather than have it published in the *Canada Gazette*?

Mr. BELL (*Carleton*): I would think so, yes. In fact, I would prefer both, actually.

Mr. LEWIS: The *Canada Gazette* gives you the information earlier.

Mr. BELL (*Carleton*): Yes; I think there might be advantage to publication in the *Canada Gazette* and, perhaps, later mention in the annual report.

Mr. LEWIS: It could just be entered as an appendix to the report.

Mr. BELL (*Carleton*): Mr. Chairman, I would not want to overload the law with directions, but my own personal view, for what it is worth, is that it would be more useful to have a requirement that any orders under clauses 4 and 5 should be published in the *Canada Gazette*.

Mr. KNOWLES: And the annual report could note that.

Dr. DAVIDSON: Surely we can leave it to the board to decide what they put in their annual report.

Mr. KNOWLES: I am not suggesting that—

Mr. LEWIS: I think the *Canada Gazette* is preferable.

Mr. BELL (*Carleton*): I never got into too much trouble in other days when I accepted Dr. Davidson's advice, so I am prepared to accept it now.

Dr. DAVIDSON: You did not take my advice for very long.

The JOINT CHAIRMAN (*Mr. Richard*): If clause 115 carries in the present form, it is satisfactory, but then you are back to clauses 4 and 5 which were carried.

Dr. DAVIDSON: We will undertake to cover that in any case, Mr. Chairman.

Mr. LEWIS: Excuse me, Mr. Chairman, does subsection (2) of clause 113 not relate in some way to clause 5? I merely draw it to your attention. Is there not some overlapping? If you could just look at it.

Dr. DAVIDSON: No, there is not.

Clause 5 deals with transfers within the public service staff relations act, from one schedule to another. This deals with transfers from outside in and inside out.

Clause 115 agreed to.

On clause 116—*Coming into force*.

Mr. BELL (*Carleton*): One would hope that in clause 116 the date would be very early.

Dr. DAVIDSON: It would have to be, with the schedule that we have in mind.

The real reason for clause 116 is to make certain that the date for the proclamation of this act and the other two acts will be the same.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure, Mr. Bell, in answer to your question, that the interested will realize that we have been doing our very best.

Clause 116 agreed to.

On schedule A—*Departments and other portions of the public service of Canada in respect of which Her Majesty as represented by the Treasury Board is the employer*.

Mr. KNOWLES: Mr. Chairman, without making a long speech, because we have been over this ground quite often, I should like to move, seconded by Mr. Lewis, that Schedule A be amended by deleting the words "Government Printing Bureau" from Part I thereof, and by inserting the said words in Part II thereof immediately after the words "Fisheries Research Board". The point in putting it there, of course, is to preserve "alphabeticalism".

Mr. BELL (*Carleton*): Does Mr. Lewis second that murder of the English, language as well?

Mr. LEWIS: Just the motion I feel almost as sensitive about that as would Eugene Forsey.

The JOINT CHAIRMAN (*Mr. Richard*): Moved by Mr. Knowles, seconded by Mr. Lewis, that Schedule A be amended by deleting the words "Government Printing Bureau" from Part I thereof and by inserting the said words in Part II thereof immediately after the words "Fisheries Research Board".

Mr. McCLEAVE: Are you sure Mr. Knowles, that this is not a printer's error?

Mr. KNOWLES: You mean in the original act?

Mr. McCLEAVE: No; in what you attempt to do now.

Mr. KNOWLES: No; this proves what a good band of printers we have over there. They did not make an error to their own advantage.

Mr. Chairman, we have been over this many times; I have stated the view that if we are going to develop collective bargaining on a satisfactory basis we should have some consideration for the views of those affected. I am prepared to admit that most of the civil servants want this bill with the improvements which have been made, but there are two groups who would like something different.

One group is the post office group, with which we can deal later, and the other group consists of the employees of the Printing Bureau, who feel that they would like to be known as employees of a separate employer. Two or three of their groups were here and pointed out to us that their operation is unique, that it is closer to a commercial operation than almost anything in the government service; also, that they have a long tradition of virtual bargaining; it has not been recognized as collective bargaining, but they have been dealing with their employer on a separate basis, and I think that they made a case for this.

There are some little details that will follow afterwards, which I think they should work out with their separate employer, but I would urge very strongly that we improve the bill by meeting this request, and put the employees of the Government Printing Bureau under Part II of Schedule A.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. McCLEAVE: I think this argument is very appealing but I wonder what Dr. Davidson or Mr Love would say about it?

Dr. DAVIDSON: I will be very glad to comment, Mr. Chairman, if there are no other members of the Committee who want to precede me.

Mr. BELL (*Carleton*): I think I might like to comment, but I would like to hear what Dr. Davidson has to say first.

Mr. WALKER: May I make a comment, Mr. Chairman, at this time?

I have looked at Part II of Schedule A and it seems to me that there is a distinctive characteristic about those particular eight agencies that are in there. The distinctiveness of the ones already in Part II, in my judgment, would be destroyed by the passing of Mr. Knowles' motion. I do not think that there are the same considerations for the transferring of the Government Printing Bureau as there are for the present grouping of Part II.

Again, I go back to the basic purpose of this bill. It would tend to destroy at the outset, and to disrupt at the outset, the merit system, the reclassification

groupings, and I am just wondering if it is not too early in the process of collective bargaining—regardless of what may happen in the future through any action the board may take—at this time for those of us who are in this Committee and who are getting this thing launched, to start opening a crack that may well come later, but which I do not think should be initiated now.

Mr. LEWIS: I am not going to put Mr. Walker on the spot, but would he tell us what considerations apply to the eight now in Part II that do not apply to the Government Printing Bureau?

Mr. WALKER: I think the groupings—it is becoming a little difficult to hear myself, Mr. Chairman.

Mr. LEWIS: Why not tell your colleague, Mr. Tardif?

Mr. WALKER: Could we have order, Mr. Chairman?

Mr. LEWIS: There is another opportunity.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Yes, Mr. Walker.

Mr. WALKER: I think the groupings under Schedule A are not done on the basis of craft unions or special interest groupings as opposed to the general principle that we have in the bill.

Mr. LEWIS: Where do the craft unions come into this?

Mr. WALKER: I would think that this applies. Certainly my background in this sort of discussion is very limited, and Mr. Lewis has much more experience than I, but I do think that this is the problem, that the printing unions are attempting—and quite rightly—to preserve their type of community of interest as a craft union.

Senator DESCHATELETS: They want to be represented by their own people, if I remember rightly. That was the meaning of their brief. There are 200 people there.

Mr. KNOWLES: Do they not already have a separate relationship in that they are not inserted in the *Statistical Review*? Do they not already have a separate relationship?

Mr. WALKER: May I just finish this, and then I will be through?

All I am suggesting is that we are opening the door at the very outset to arguments that may be just as reasonable as the argument of the Government Printing Bureau, that a community of interest, or a geographic location, is a more overriding consideration than the basic principle on which we are trying to initiate this legislation.

Mr. McCLEAVE: The point I was going to make, Mr. Chairman, is that I read the two lists and I cannot see how they can be divided craftwise, or geographic-wise, or otherwise, but I think that Dr. Davidson usually is able to sum up in a few trenchant words what is being attempted, and he may be able to help us before we, as members, continue this discussion. What is the philosophy for the division between Part I and Part II?

Dr. DAVIDSON: The philosophy, Mr. Chairman, is based on the fact that all of the agencies listed in Schedule A as coming under the jurisdiction of the Treasury Board as the representative of the employer—all of these agencies,

without exception—have historically had their wages and working conditions and conditions of employment, generally, determined by the Treasury Board up to and including this moment.

Mr. BELL (*Carleton*): Only since 1960, surely.

Dr. DAVIDSON: I beg your pardon.

Mr. BELL (*Carleton*): Or 1961; at least, history is made very quickly, apparently.

Dr. DAVIDSON: I must say I was a bit surprised to draw the inference from Mr. Knowles' statement that he was under the impression that the employees of the Government Printing Bureau dealt, in the matter of their wages and working conditions, with the head of the Government Printing Bureau, because my clear understanding is that the Treasury Board deals with these matters, as it does with all other matters affecting both classified employees and prevailing rate employees.

It is true, as I recall, that there are certain provisions contained in the legislation which relate the rate of pay of members of certain crafts in the Government Printing Bureau to rates in Montreal, Toronto and one or two other centres. The effect of these provisions is to gear the prevailing rates for those employees to two or three centres of Canada rather than to Ottawa, as such, or to any national averaging of the rates as a whole.

Mr. KNOWLES: I do not think there is any great difference between us, Dr. Davidson. I realize that it is Treasury Board in the last analysis, but do not the printing unions, either individually or through their council, meet with the management at the bureau in this process, and lay before management what their contracts are—

Dr. DAVIDSON: This could be equally true of the dockyard workers in Halifax and Esquimalt and many other situations; and it is also true, if I may say so, that when collective bargaining comes along and the negotiating team for the employees of the bargaining unit concerned sits down across the table from the negotiating team for the employer, the negotiating team for the employer will include not only representatives of the Treasury Board but representatives of the Government Printing Bureau—the management side. Therefore, the situation will not differ all that much in terms of actual practice.

But if you will look at Schedule A you will see that each one of the agencies listed in Schedule A, Part II, is presided over by a board or commission, so that there is some kind of what you might call a corporate structure that is capable of carrying out the role of a separate employer.

I do not deny that in Schedule A, Part I, there are also some boards and commissions there, but it would be anomalous, to say the least, if the Government Printing Bureau, which is under the direction of the Director of the Government Printing Bureau, were to be set up as a separate employer, with the Director of the Government Printing Bureau going directly to the Governor in Council for his authority to draw up collective agreements with the employees of the Government Printing Bureau, and to have all of the other departments and agencies of the government dealing with the Treasury Board.

Mr. McCLEAVE: May I ask a question of Dr. Davidson? Apparently the group that Mr. Knowles has made the motion on behalf of is the only one that feels

strongly enough about it to make the request to go from Part I to Part II of this schedule. So that we do not deal with things rather in the abstract—you admit this cross-mating of boards in one section with boards in another, and so on—is there any objection, in practice, to having Mr. Knowles' request granted in the case of the one group which wants to be.

Dr. DAVIDSON: You are asking me a direct question and I will have to give you a direct answer. From our point of view there would be objections—there would have to be objections.

Mr. McCLEAVE: On what grounds?

Dr. DAVIDSON: The employer here is the Treasury Board, the government of Canada. The Printing Bureau is not set up as a separate corporate entity. I must say that I think the expressed desire of the employees of the Government Printing Bureau—the fact that this is the only one which has made the request—should not be taken as being indicative of the fact that they are the only ones who could conceivably be interested. They are located in Ottawa, and this is the centre where the discussion is going on. In your own constituency, Mr. McCleave, the employees of the dockyard might well find themselves in the same position, and if this arrangement were granted to any other group of employees they would come forward and say, "Well, we should have known about this and we should have had the privilege of opting which of these two schedules we are attached to".

Mr. McCLEAVE: Dr. Davidson, I am going to be very unfair and ask you to name anything in Part I that would point to employees of dockyards? It would either be the National Defence Employees Association, in my opinion, or none at all, and they are not in here.

Dr. DAVIDSON: They are employees of the Department of National Defence.

Mr. McCLEAVE: Yes; but the Department of National Defence is not in here either.

Dr. DAVIDSON: I beg your pardon, sir, if you would look at the top three lines you would see that all departments. . .

Mr. McCLEAVE: That is right; all departments, yes.

Mr. KNOWLES: I would like to point out to you, Dr. Davidson, that people like the dockyard workers are directly under the Department of National Defence, but the Government Printing Bureau, apparently, is not included in any department. It has to be listed separately like the National Gallery of Canada and the National Energy Board.

An hon. MEMBER: And the Agricultural Stabilization Board.

Mr. KNOWLES: It is one of 25 or 30 entities which have to be looked at and a decision made. Granted that each of the entities now under Part II may have a board in charge of it, still there are several entities in Part I which have boards in charge of them. Was it not awkward to make that kind of decision? There is the Atomic Energy Control Board in Part II but the Air Transport Board is in Part I. If you would make that kind of a shifting about in these entities, what is wrong with shifting this entity, the Government Printing Bureau, which you have already identified by itself in Part I, into Part II?

Dr. DAVIDSON: You suggest, Mr. Knowles, that the Government Printing Bureau is not part of a department. The Government Printing Bureau does report to the Minister of Defence Production, and I would have to check whether the Government Printing Bureau is, in fact, a portion of the Department of Defence Production, or whether it is an entity outside that reports to the minister.

Mr. BELL (*Carleton*): It is not necessary to enumerate—

Dr. DAVIDSON: Perhaps I could come to the other part of my argument. I must say that I think it would be unwise for the government—and this is the advice I would have to give to the government—to accept, at this time, a proposition that a unit such as the Government Printing Bureau which is listed in Schedule A, Part I, which has traditionally had its wages and working conditions determined as a result of Treasury Board authority rather than be a separate board or agency,—it would be unwise, at this time, for the government to agree to the transfer of that unit to the part of the schedule which would enable the Government Printing Bureau to be recognized as a separate employer deriving its authority for entering into a collective agreement directly from the Governor in Council.

Not only do I feel that would be unwise, but I believe that if the situation is examined it will be seen that it is quite possible for the employee organizations concerned to achieve what I understand they basically want through the formation of a council of employee organizations within the bargaining unit that is to be set up at the Government Printing Bureau bargaining unit.

Mr. LEWIS: You visualize it as a separate bargaining unit, in any case, do you?

Dr. DAVIDSON: You mean the Government Printing Bureau?

Mr. LOVE: Or a separate occupational group for the printing trades, Mr. Chairman.

Mr. MCCLEAVE: Are they paid on this prevailing rate formula, Dr. Davidson?

Mr. LOVE: They are paid on the basis of prevailing rates, Mr. Chairman.

Mr. BELL (*Carleton*): Well, not true prevailing rates.

Mr. LOVE: They are governed by the—

Mr. BELL (*Carleton*): They are not prevailing rates in Ottawa which is the normal prevailing rate. It is the prevailing rate for Toronto and Montreal.

Mr. LOVE: That is right, but they are governed by a set of regulations which are associated with the prevailing rate regulations, and the only difference here is that instead of the rates being based on Ottawa rates, they are based on Toronto and Montreal rates.

Mr. LEWIS: On their collective agreements.

Mr. MCCLEAVE: May I ask this further question? Looking at those listed in Part II, you say would there be any of the eight groups there that were paid on prevailing rates? Maybe this is where I can resolve it in my own mind.

Dr. DAVIDSON: While Mr. Love is looking that up, could I just make a further point that the Government Printing Bureau consists not only of members of the craft unions who are interested in coming under a separate employer but

the Government Printing Bureau also has a number—I do not know how many—of clerks, stenographers and personnel who correspond very closely to the kind of personnel who are employed in agencies and departments of government coming under Schedule A, Part I and these employees are appointed under the provisions of the Civil Service Act.

Mr. KNOWLES: What about the National Research Council?

Dr. DAVIDSON: No, they are not appointed under provisions of the Civil Service Act.

Senator DESCHATELETS: Dr. Davidson, I suppose that the problem we are discussing here is not limited to the Printing Bureau as the only case. Suppose that we move then to Part II. You have a list of other units that might want to be moved also, such as the national level. This is the problem I think we face. It is not only the Printing Bureau itself, but if you open the door, you fear that certain other units would like to be moved also.

Dr. DAVIDSON: Well, in fairness to the employees in the Government Printing Bureau, they are the only group who have requested this, and I am not in a position to say that other groups wish it or that they would request it. I want to be fair to the position to that extent; but from another point of view what this would involve would be the separation of a group of civil servants—and now I am talking about the employees in the Government Printing Bureau who are not members of craft unions—from the main body of bargaining in so far as the rest of the civil service is concerned. It would mean placing the wages and working conditions of this relatively small number of civil servants—a couple of hundred of them, I believe—under the jurisdiction of a separate employer, the Governor in Council.

Mr. KNOWLES: What is done in the case of the stenographers and clerks at the National Research Council?

Dr. DAVIDSON: The National Research Council determines separately its own policies with respect to the wage levels and salary levels applicable to its clerks and stenographers. As a matter of administrative practice, it adopts for its own purposes the corresponding civil service rates but this is in a non-bargaining context, Mr. Knowles, and they are not civil servants.

Mr. KNOWLES: They are not appointed.

Dr. DAVIDSON: To find ourselves in a situation where because certain civil service stenographers were being dealt with by a separate employer, and other civil service stenographers are being dealt with by the Treasury Board, we were obliged to pay separate levels of pay to the same classifications of civil servants—this it seems to me would put us in a difficult position.

Mr. KNOWLES: What will be the position, let us put it that way, of the clerks and stenographers at the National Research Council after this bill goes through, The National Research Council being a separate employer and bargaining with that separate employer being provided?

Dr. DAVIDSON: It could conceivably result that the National Research Council might feel obligated to enter into an agreement with its bargaining unit that would provide for a different scale of pay for the clerks and stenographers in the National Research Council, but at least that would not result in civil

servants appointed under the provisions of the Civil Service Act, and being in the same classes, being paid different amounts.

Mr. KNOWLES: But if you can meet the situation in one situation in Ottawa, why can you not meet it in another?

Dr. DAVIDSON: Well, of course, I think the answer would be that it can be met by the Government Printing Bureau craft unions, who are the ones that are interested in this transfer, forming themselves into a union council and seeking the right to act through the council as the bargaining agent for the employees that they represent. They would not then be involved in having to try to represent the clerks and the stenographers who are not part of their craft unions; and they would have a direct bargaining relationship with the Treasury Board which is in the final analysis the employer that will decide the wage questions, as they do at the present time. In that Treasury Board team representing management would be representatives of the Government Printing Bureau.

Now, may I just go on to add that following the initial certification period, then the question becomes a matter for the Public Service Staff Relations Board, and if there is any desire on the part of the unions represented at the Printing Bureau to break out into separate elements and to form separate bargaining units, either as a group or individually, they have then to make their case to the Public Service Staff Relations Board.

Mr. McCLEAVE: May I ask Dr. Davidson this: let us take the two top ones in Part I and Part II and the stenographers in the Atomic Energy Control Board and the stenographers in the Agricultural Stabilization Board. Can they bargain for the same things? Presumably they can type 120 words a minute, and are very efficient, work a seven hour day, and do it properly. They will get only the same pay as a result of the bargaining.

Dr. DAVIDSON: The stenographers who are employed by the Agricultural Stabilization Board will be included in the bargaining unit that deals with the clerks and stenographers vis-à-vis the Treasury Board, and all of the clerks and stenographers in all of these agencies and departments that are listed in Schedule A, Part I, will be subject to the same collective agreement. The employees of the Atomic Energy Control Board will be in a separate bargaining unit.

Mr. McCLEAVE: Every last one, scientist and non-scientist alike?

Dr. DAVIDSON: All of the employees of the Atomic Energy Control Board will be in a bargaining unit that is separate, in one or more bargaining units—

Mr. BELL (*Carleton*): In relation to their occupation, to their occupational groups, you mean?

Dr. DAVIDSON: In relation to their occupational category, Mr. Bell, but not necessarily occupational groups. They will bargain with the Atomic Energy Control Board, and the Atomic Energy Control Board will, as it reaches the concluding stages of its negotiations be obligated to go to the Governor in Council to have the bargain it proposes to enter into with its employees confirmed and ratified before the agreement can be finalized.

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready for the question?

Mr. BELL (*Carleton*): The rest that Dr. Davidson, I think, has put in relation to this has been the extent of Treasury Board control. I think that that was his initial point, that under Part I, Treasury Board controls, but in Part II it was more relaxed.

Dr. DAVIDSON: There is no Treasury Board control over Part II.

Mr. BELL (*Carleton*): Well, that was precisely my point. I have had the responsibility of reporting both to Parliament and Treasury Board for at least one of the organizations under Part II, namely, the National Film Board, and unless the situation has been changed very considerably, I must say that I signed a great many more submissions to Treasury Board for the National Film Board than I did for the National Gallery or the Public Archives or the National Library, and a much more rigid control was exercised in those days over the National Film Board than over these other organizations, and I find from my personal experience Dr. Davidson's division very difficult to understand.

Dr. DAVIDSON: If you will look at the provisions of the National Film Act, Mr. Bell, you will see written into the legislation a very precise, a very clear line of demarcation between the levels over which the Film Board has authority and responsibility to determine wages and classifications and conditions of employment generally and the levels where the reference has to be made to Treasury Board. There is a statutory authority vested in the Film Board under the National Film Act to deal with wages and working conditions of its own employees in certain areas of the Film Board.

Mr. BELL (*Carleton*): Then, if that be true, I have the recollection of that, why does not the National Film Board straddle Part I and Part II?

Dr. DAVIDSON: Because it was our view that it would not be feasible to have an employer that was a separate employer for part of its employee work force and not a separate employer for the other part of the work force. Consequently, not being able to change, or feeling that we would not be justified in asking that the law be changed affecting the National Film Board, we decided that the best thing to do was to recognise that it was a separate employer for purposes of all of its staff requirements. . .

Mr. BELL (*Carleton*): Are we by indirection changing the law relating to the National Film Board?

Dr. DAVIDSON: That is a good point. I would have to look at the National Film Act to establish this, but my impression would be that with respect to the National Film Act we already refer to the Governor in Council rather than to the Treasury Board as the authority to whom the National Film Board must turn even for those portions of its work force that do not come under its direct jurisdiction.

The JOINT CHAIRMAN (*Mr. Richard*): Is the Committee ready for the question? Mr. Walker.

Mr. WALKER: I see much more relationship between the Government Printing Bureau and the majority of the other agencies or departments under Part I than I do for the Printing Bureau under Part II. I would like to suggest that if in fact the Printing Bureau is moved to Part II, then by right there will be just as much logic for half a dozen or more of these other people in Part I to follow the very same routine, and I think as of right.

Mr. McCLEAVE: They are not asking for it; only one group has had sense enough to ask for it.

Mr. WALKER: But I would suggest that the result of the passing of this motion, if it passes, and I hope it will not, would be that by right, I would suggest, we would have to extend to all other employees an invitation to do the very same thing. This is the point that I fear, particularly at the outset and the initiation of this legislation. What the board does later, three years from now, is something out of our control.

Mr. KNOWLES: Mr. Chairman, what is so wrong with the conclusion to which Mr. Walker objects? We are not passing legislation under the theory that it is our right to give to these people what we think is good for them. We are trying to develop a system of collective bargaining that will be satisfactory to both sides. As I have said a dozen times in the course of these few weeks, I think that our public servants follow into three groups, one very large group that likes this bill whether Mr. Lewis and I like it or not; O.K., they can have it. But there are two other groups that want something different. I suggest that we should pay some attention to their wishes. This is one of the groups, and that is why I moved the amendment.

Mr. LEWIS: May I ask Dr. Davidson or Mr. Love, whoever has the answer, when you set up the Queen's Printer's employees as a separate occupational group, will you include in that separate occupational group everyone employed by the Queen's Printer, including office boys, stenographers and so on?

Mr. LOVE: Mr. Chairman, as I understand it, and I have not checked the definition developed by the Bureau of Classification Revisions recently, the proposal is that there be an occupational group composed of the printing operations' employees and that would exclude the clerks and stenographers, and so on, who would be in the appropriate occupational group in the system. So the group, as I understand it, would consist of the people who are engaged in the printing processes.

Mr. LEWIS: The printer, the typeholds, the pressmen, the lithographers, the bookbinders, I think these are the four occupations. Now, is there anything in the act that would prevent that group dealing with the separate employer, or if you put them under Part II of Schedule A, that you include everybody? You see, I have a notion that we are arguing about something which in practical terms may really not make any difference, and if it does not make any difference, I think the argument for giving these unions what they are asking for is pretty strong. If you are contemplating a bargaining unit consisting only of the technical people, those concerned with the printing operation, anyway, then why can that bargaining unit not deal with the immediate employer?

Dr. DAVIDSON: Mr. Chairman, I will try again, but I am repeating myself when I say that this would require you to have a separate employer who is a separate employer for one half of his work force and is not a separate employer for the other half, and I would doubt whether you can have an employer who exists half slave and half free in that context. Either you have an employer who is independent—

Mr. LEWIS: I am prepared to let him be half free. Why should you object?

Dr. DAVIDSON: Either you have an employer who is independent of the Treasury Board as employer and reports to the Governor in Council, and has to

have his authority from the Governor in Council, or you have an employer as a departmental employer who is subject, like all of the other departments and agencies in Part I, to the final authority of the Treasury Board, I think. It has got to be one or the other, it seems to me.

Mr. McCLEAVE: Dr. Davidson, this is not true of the private sector surely where you may have half the employees at the back in the warehouse company operating through the International Teamsters Union, for example, and the other ones bargaining differently from the white collared workers at the front end of the business. This seems to me to be the inflexibility of these divisions under boards, commissions, departments or what not, you cannot take groups within departments and put them all in the category; that we seem to be dealing with—

Dr. DAVIDSON: I can only add one more thing, and that is that it is correct that there is in Schedule A, Part II, no agency that employs employees under the Civil Service Act. These are all non-civil servants, and the proposals to transfer the Government Printing Bureau to the Schedule A, Part II, would have the effect of transferring several hundred civil servants to a regime of separate employer that finds no duplicate in any of the other agencies that are in Schedule A, Part II at the present time.

Mr. KNOWLES: As Mr. Walker suggested, this is fragmentation, but Mr. Love has already made clear to us there is going to be fragmentation anyway because the printing operations group is going to be separated from the stenographers and clerks.

Mr. LOVE: On an occupational basis.

Mr. KNOWLES: As far as half free and half slave, Dr. Davidson, then you have got a minister that is only half yours.

Dr. DAVIDSON: Does that make me half free or—

The JOINT CHAIRMAN (*Mr. Richard*): Is the Committee ready for the question? All those in favour of the amendment proposed by Mr. Knowles signify. Those opposed?

Amendment negatived.

Mr. KNOWLES: Can we have the names recorded, please?

The JOINT CHAIRMAN (*Mr. Richard*): I am reluctant. I would point out, or maybe I should not point out, the Civil Service Commission—

Mr. KNOWLES: Mr. Chairman, did you hear my request? I would like to have the names recorded.

The JOINT CHAIRMAN: The 'yeas' and the 'nays'.

Mr. WALKER: Ring the bell, call in the members.

The JOINT CHAIRMAN (*Mr. Richard*): Schedule B.

Mr. KNOWLES: Did you not hear me?

Mr. McCLEAVE: He is not only blind but deaf.

Mr. KNOWLES: I am asking you to have the names recorded, the 'yeas' and 'nays'.

The JOINT CHAIRMAN (*Mr. Richard*): Well, if you insist.

Mr. KNOWLES: Yes, I do.

Mr. WALKER: Shall we vote on that?

Mr. KNOWLES: I have no objection.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure you want to use the information to good purpose.

Mr. KNOWLES: Mr. Chairman, I object to that comment. It is my right to ask for 'yeas' and 'nays' and I suggest that you should grant it and stop all this fuss.

The JOINT CHAIRMAN (*Mr. Richard*): There is no fuss, I did not hear you. It is most unusual.

Mr. LACHANCE: Mr. Chairman, could I just check that you have recorded it.

The JOINT CHAIRMAN (*Mr. Richard*): The secretary has done so.

Mr. KNOWLES: You have the names of those who voted 'yea', that will be clear in the minutes.

(*Translation*)

Mr. LACHANCE: Mr. Chairman, is it really the practice to always have names recorded.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, on request.

Mr. LACHANCE: I think that others will remember this, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Sometimes it is good to abide by the regulations.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Schedule B.

Mr. LACHANCE: Mr. Chairman, before we leave Schedule A—

Dr. DAVIDSON: The Civil Service Commission will have to be changed to the Public Service Commission.

Mr. KNOWLES: Is it not later?

The JOINT CHAIRMAN (*Mr. Richard*): Schedule B—

Mr. BELL (*Carleton*): Where is the Canada Council, Dr. Davidson?

Dr. DAVIDSON: It is not a part of the Public service nor an agency of the government. It is wholly outside, as are the Bank of Canada, and the Canadian Wheat Board.

The JOINT CHAIRMAN: Schedule A carried.

Schedule A agreed to.

Schedule B agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Civil Service; that should be public service, or whatever name is chosen.

Mr. KNOWLES: Dr. Davidson.

Dr. DAVIDSON: Public service of Canada.

Mr. KNOWLES: Or whatever it is finally called.

Dr. DAVIDSON: Yes. Mr. Chairman, could I just ask you to look back for a minute to Schedule A, Part I, and draw your attention to the fact that we will

ask the Committee to remove after the words "Royal Canadian Mounted Police" the words in brackets there, because I have already mentioned that we intend to take care of that exception in an amendment to the definition of an employee in clause 2.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed?

Mr. BELL (*Carleton*): You mentioned that before.
Schedule agreed to.

Mr. WALKER: Mr. Chairman, I remind you that on Schedule C there was something about the oath; did we get that straightened up?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. BELL (*Carleton*): There was during the course of the discussion, Mr. Chairman, considerable reference to whether the provisions for the Pay Research Bureau should be included in the statute. I confess that I am inclined to think that statutory provision should be made for this bureau, and I would like to raise the matter now. It has been raised several times in the course of examination. I do not necessarily ask Dr. Davidson to refer to it now, but perhaps he might consider before Tuesday whether there should be a section which provides for a Pay Research Bureau to be under the Public Service Staff Relations Board, and the conditions upon which the data, statistical information accumulated by this should be made available to both the parties, to both sides.

(*Translation*)

Mr. LACHANCE: Last Tuesday, Mr. Chairman, Mr. Emard had moved a motion, seconded by myself, an amendment to Sections 32 and 34. I discussed the problem with Mr. Emard, who for personal reasons and serious reasons, cannot be here this afternoon, who gave me permission to say that he allowed me to withdraw the amendment which I had proposed last Tuesday and which was tabled. It was not moved officially, it was rather tabled for study, for consideration, and after consideration and revision and drafting, it is quite probable that this amendment would have been moved again by Mr. Emard and myself.

I think that all members of the Committee will recall this. I would therefore like to have permission to withdraw this amendment, but I do not want members of the Committee to think that Mr. Emard or myself have abandoned the idea of submitting certain arguments. It is precisely to be able to table another one. I have here in English and in French another amendment to amend Section 28(1). If I can take the liberty of making one remark it is to arrive at the same result that we had in mind.

The JOINT CHAIRMAN: If I understand correctly, Mr. Lachance, you have in mind submitting this new formula of amendment to the Committee and to the officials of the Treasury Board so as to allow them to consider it.

Mr. LACHANCE: And to report at the next meeting.

The JOINT CHAIRMAN: Or when we come to consideration of these clauses.

Mr. LACHANCE: At least to be in conformity with what we already decided so that it will be completely in agreement and in conformity with the Sections of the Act. Of course, officials of the Treasury Board consider that there should be some changes too in Sections 32 and 34. In the light of this amendment, I think then that officials of the Treasury Board should advise us of this. Perhaps I am

mistaken but I think it is their duty to enlighten us in this matter. It really is to implement this proposal which is to be presented in due form, whether it is in agreement with other sections of the Act.

(English)

Mr. LEWIS: We will get copies of this from the clerk?

(Translation)

Mr. LACHANCE: I have a few copies here, Mr. Lewis, which I would give you if you want them.

Mr. LEWIS: With pleasure.

(English)

The JOINT CHAIRMAN: Now, our next meeting is on Tuesday at 10:30.

Mr. LEWIS: And 1:30—one hour in the offing.

The JOINT CHAIRMAN: That is not what I had in mind. I understand that the Labour committee is meeting at 9:30, and we could go from 10:30 to 1:00, with your co-operation.

(Translation)

Mr. LACHANCE: Thank you, Mr. Chairman, for having accepted your meeting for 10.30. Precisely because of Labour and Employment which is meeting at 9.30 and several members of that Committee also are on this one.

(English)

The JOINT CHAIRMAN (Mr. Richard): We will adjourn until 10:30 on Tuesday.

Mr. WALKER: The purpose will be for the amendments.

The JOINT CHAIRMAN (Mr. Richard): We will start over again with the amendments.

Senator DESCHATELETS: How many are there?

Mr. BELL (Carleton): As I understand it, Dr. Davidson is going to try to let us have for Monday afternoon draft amendments.

Dr. DAVIDSON: Correct.

Mr. LEWIS: Not all of them, but at least the basic ones.

The JOINT CHAIRMAN (Mr. Richard): The secretary will indicate between now and Tuesday to the members of the Committee which clauses are affected by any future amendments.

Mr. LEWIS: Could we have a list. I do not make notes.

The JOINT CHAIRMAN (Mr. Richard): Of the clauses we have which we have passed.

Mr. LEWIS: Of the clauses we have had stood.

The JOINT CHAIRMAN (Mr. Richard): That is exactly what I had in mind.

Mr. BELL (Carleton): Or the ones that stood—

Mr. LEWIS: Or the ones that stood—

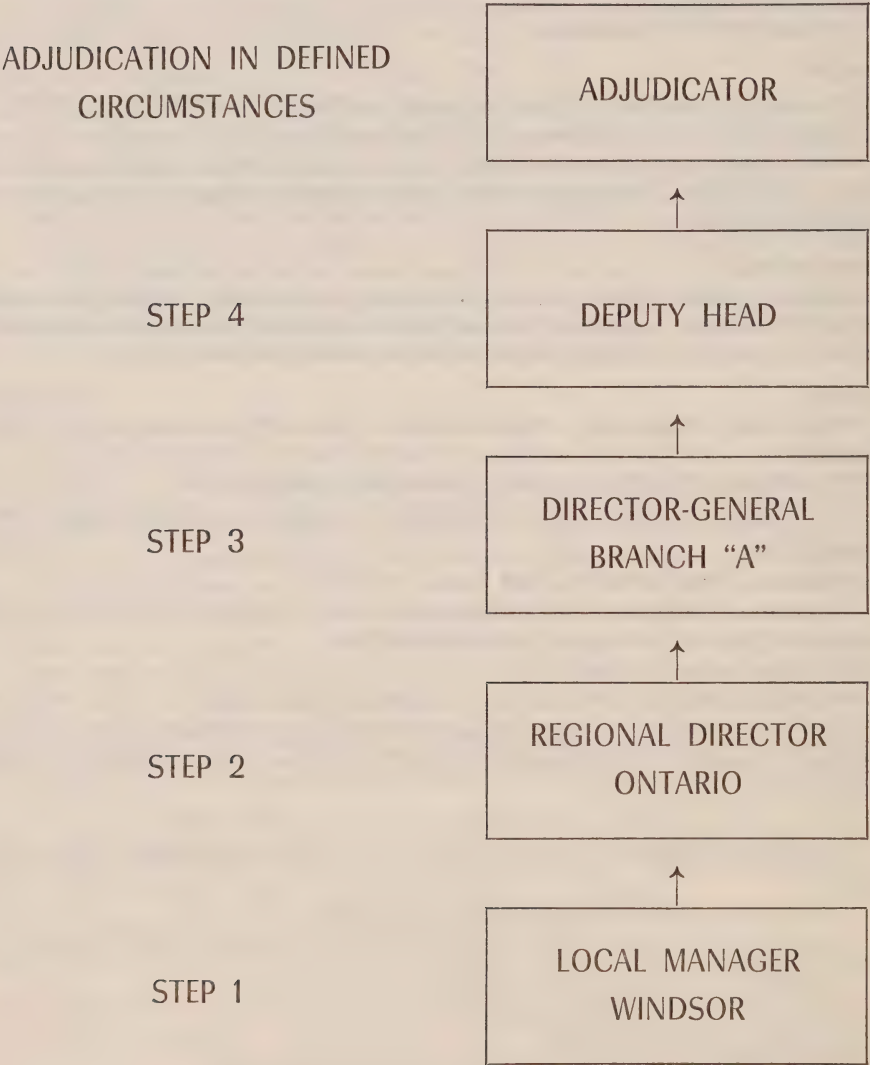
Mr. WALKER: That is right.

Dr. DAVIDSON: We have cleared up all but about 25.

The JOINT CHAIRMAN (Mr. Richard): Thank you.

APPENDIX V
(On clause 90)

POSSIBLE GRIEVANCE MACHINERY



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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 22

TUESDAY, NOVEMBER 29, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary (Personnel), *Treasury Board*; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Representing the House of Commons

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	² Mr. Langlois
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	(<i>Chicoutimi</i>),
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. Madill,
Mr. Denis,	Mr. Chatwood,	Mr. McCleave,
Mr. Deschatelets,	Mr. Crossman,	Mr. Patterson,
Mrs. Fergusson,	Mr. Émard,	Mr. Rochon,
Mr. Hastings,	¹ Mr. Éthier,	Mr. Sherman,
Mr. MacKenzie,	Mr. Fairweather,	Mr. Simard,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Isabelle,	Mr. Tardif,
<i>Guysborough</i>),	Mr. Knowles,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Lachance,	Mr. Walker—24.

Edouard Thomas,
Clerk of the Committee.

¹ Replaced Mr. Hymmen on November 28, 1966

² Replaced Mr. Orange on November 28, 1966

Corrigendum:

Issue No. 16, Thursday, November 3, 1966.

For "Tony Nanty" Line 34, Page 749, read "Tory Party".

ORDER OF REFERENCE

MONDAY, November 28, 1966.

Ordered,—That the name of Messrs. Éthier and Langlois (*Chicoutimi*) be substituted for those of Messrs. Hymmen and Orange on the Special Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

TUESDAY, November 29, 1966.

(40)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.42 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Crossman, Émard, Éthier, Fairweather, Knowles, Langlois (*Chicoutimi*), Lewis, Madill, McCleave, Richard, Rochon, Tardif, Walker (16).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Dr. P. M. Ollivier, Parliamentary Counsel, House of Commons; Messrs. P. M. Roddick, Secretary, R. M. McLeod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee considered suggested amendments to clauses of Bill C-170 allowed to stand at previous meetings, as follows:

Clause 1, stand; Paragraphs 2(a) to (i) inclusive, carried; Paragraph 2(j), carried as amended (see motion below); Paragraphs 2(k) and (l), carried; Paragraphs 2(m) and (n), carried as amended (see motion below); Paragraph 2(o), stand; Paragraphs 2(p) to (s) inclusive, carried as amended (see motion below); Paragraph 2(t), carried; Paragraph 2(u), amended (see motion below); Sub-paragraph 2(u) (i), carried as amended (see motion below); Sub-paragraphs 2(u) (ii) and (iii), carried; Sub-paragraph 2(u) (iv), stand; Sub-paragraph 2(u) (v), carried as amended (see motion below); Sub-paragraph 2 (u) (vi), carried; Sub-paragraph 2(u) (vii), stand; Paragraphs 2(v) to (bb) inclusive, carried; Clause 7, stand; Clause 8, carried as amended (see motion below); Clause 9, carried as amended (see motion below); Clause 16, carried as amended (see motion below); Sub-clause 17(1), carried as amended (see motion below); Sub-clause 17(2), carried as amended (see motion below); Sub-clause 17(3), carried as amended (see motion below); new Sub-clause 17(4), carried on division (see motion below); Clause 18, stand; Paragraphs 19(1) (a) to (e) inclusive, carried; Paragraph 19(1) (f), carried as amended (see motion below); Paragraphs 19(1) (g) to (j) inclusive, carried; Paragraph 19(1) (k),

stand; Paragraph 19(1)(1), carried; Sub-clause 19(2), carried; Clause 23, stand; Clause 25, carried on division; Clause 26, carried as amended (see motion below); Clause 27, carried as amended (see motion below); Clause 28, stand; Clause 29, deleted (see motion below); Clause 32, carried as amended (see motion below); Clause 34, stand; Clause 35, carried as amended (see motion below); Clause 36, carried as amended (see motion below); Clause 37, stand; Clause 38, stand; Sub-clause 39(2), stand; Sub-clause 39(3), carried as amended (see motion below); Clause 51, carried as amended (see motion below); Clause 52, deleted (see motion below); Clauses 53 and 54, carried as amended (see motion below); Clause 55, carried as amended (see motion below); Clause 56, carried as amended (see motion below); Clause 57, carried as amended (see motion below); Clause 58, stand; Sub-clause 60(2), carried; Sub-clause 63(1), carried as amended (see motion below); Clause 64, carried as amended (see motion below); Clause 67, carried as amended (see motion below); Clause 70, carried as amended (see motion below); Sub-clause 71(2), carried as amended (see motion below); Sub-clause 72(1), stand; Sub-clause 72(2), carried as amended (see motion below); Sub-clause 72(3), carried; Clause 73, carried as amended (see motion below); Clause 75, carried as amended (see motion below); Clause 78, carried as amended (see motion below); Sub-clause 79(2), carried; Sub-clause 79(5), carried as amended (see motion below); Clause 83, carried as amended (see motion below); Clause 92, carried; Clause 94, carried as amended (see motion below); Clause 95, stand; Clause 96, stand; Clause 97, stand; Clause 99, stand; Clause 103, carried as amended (see motion below); Clause 109, carried as amended (see motion below); Clause 110, carried; Sub-clause 113(2), stand; Schedule B, carried as amended (see motion below); new Schedule B, carried (see motion below); Schedule C, carried as amended (see motion below).

By leave of the Committee, consideration was given to certain clauses which carried at a previous meeting to permit technical and/or consequential changes resulting from some of the amendments.

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That paragraph 2(j) be amended by striking out line 19 and substituting the following therefor: "Chairman under section 52 to assist the parties".

Moved by Mr. Walker, seconded by Mr. Tardif,

Agreed,—That paragraphs 2(m) and (n) be struck out and the following substituted therefor:

"(m) "employee" means a person employed in the Public Service, other than

- (i) a person appointed by the Governor in Council under an Act of Parliament to a statutory position described in that Act,
- (ii) a person locally engaged outside Canada,
- (iii) a person whose compensation for the performance of the regular duties of his position or office consists of

fees of office, or is related to the revenue of the office in which he is employed,

- (iv) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,
- (v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,
- (vi) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,
- (vii) a person employed by or under the Board, or
- (viii) a person employed in a managerial or confidential capacity,

and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament.

- (n) "employee organization" means any organization of employees the purposes of which include the regulation of relations between the employer and its employees for the purposes of this Act, and includes, unless the context otherwise requires, a council of employee organizations;"

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed.—That paragraphs 2(p), (q) together with marginal note, (r) and (s) be struck out and the following substituted therefor:

"(p) "grievance" means a complaint in writing presented in accordance with this Act by an employee on his own behalf or on behalf of himself and one or more other employees, except that

- (i) for the purposes of any of the provisions of this Act respecting grievances, a reference to an "employee" includes a person who would be an employee but for the fact that he is a person employed in a managerial or confidential capacity, and

- (ii) for the purposes of any of the provisions of this Act respecting grievances with respect to disciplinary action resulting in discharge or suspension, a reference to an "employee" includes a former employee or a person who would be a former employee but for the fact that at the time of his discharge or suspension he was a person employed in a managerial or confidential capacity;

- (q) "initial certification period" means, in respect of employees in any occupational category, the period ending on the day

Initial
certifica-
tion
period.

specified in Column III of Schedule B applicable to that occupational category;

- (r) "occupational category" means any of the following categories of employees, namely,
 - (i) scientific and professional,
 - (ii) technical,
 - (iii) administrative and foreign service,
 - (iv) administrative support, or
 - (v) operational,
 and any other occupationally-related category of employees determined by the Board to be an occupational category;
- (s) "occupational group" means a group of employees specified and defined by the Public Service Commission under subsection (1) of section 26;"

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

*Agreed,—*That paragraph 2(u) be amended by striking out marginal note and line 9 and substituting the following therefor:

"Person
employed in
a managerial
or con-
fidential
capacity."

(u) "person employed in a managerial or confidential capacity".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

*Agreed,—*That sub-paragraph 2(u)(i) be amended by striking out lines 15 and 16 and substituting the following therefor: "head of a department or the chief executive officer of any other portion of the".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

*Agreed,—*That sub-paragraph 2(u)(v) be amended by adding the words "on behalf of the employer" after the word "formally" line 38.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

*Agreed,—*That sub-clause 8(1) be amended by striking out lines 17 and 18 and substituting the following therefor:

"8. (1) No person who is employed in a managerial or confidential capacity, whether or not he is acting on behalf of the em—" and

That sub-clause 8(2) be amended by striking out line 15 on page 7 and substituting the following therefor: "in a managerial or confidential capacity."

By leave, moved by Mr. Walker, seconded by Mr. Crossman,

*Agreed,—*That sub-clause 9(1) be amended by striking out line 23 and substituting the following therefor: "employed in a managerial or confidential capacity, whether or not he acts on" and

That sub-clause 9(2) be amended by striking out line 27 and substituting the following therefor: "to prevent a person employed in a managerial or confidential capacity".

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That paragraph 16(2)(b) be deleted and the following substituted therefor:

“(b) at least two other members to be designated by the Chairman in such a manner as to ensure that the number of members appointed as being representative of the interests of employees equals the number of members appointed as being representative of the interests of the employer.” and

That sub-clause 16(3) be deleted and the following substituted therefor:

“(3) A decision of a majority of those present at any meeting of the Board, or of a division thereof, is a decision of the Board or the division thereof, as the case may be, except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote.”

By leave, moved by Mr. Walker, seconded by Mr. Émard,

Agreed,—That Clause 17 together with marginal notes be struck out and the following substituted therefor:

17. (1) The Chairman is the chief executive officer of the Board.

“Chairman to be chief executive officer.

(2) A Secretary of the Board shall be appointed under the provisions of the Public Service Employment Act, who shall under the Chairman have supervision over and direction of the work and staff of the Board.

Appointment of Secretary.

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the Public Service Employment Act.

Other staff.

(4) The Chairman may appoint and, subject to the approval of the Governor in Council, fix the remuneration of conciliators and other experts or persons having technical or special knowledge to assist the Board in an advisory capacity.”

Appointment of experts and advisers.

Moved by Mr. Walker, seconded by Mr. Ethier,

Agreed,—That paragraph 19 (1) (f) be struck out and the following substituted therefor:

“(f) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations;”.

Moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That Clause 26 be struck out together with marginal notes and the following substituted therefor:

“26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in

“Specification of occupational groups.

subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

- (a) all of the employees in an occupational group;
- (b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or
- (c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Times relating to commencement of collective bargaining during initial certification period.

(5) During the initial certification period, in respect of each occupational category,

- (a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and
- (b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

(6) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purposes of this Act, the Board shall, at the time of making the determination,

Other
occupational
categories.

- (a) specify the day corresponding to that described in subsection (3) that occupational category as though it were specified by the Board under that subsection; and
- (b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That Clause 27 be amended by striking out line 33 and substituting the following therefor: "tive bargaining may, subject to section 30, apply".

Moved by Mr. Walker seconded by Mr. Knowles,

Agreed,—That Clause 29 together with the marginal note be deleted.

Moved by Mr. Walker, seconded by Mr. Fairweather,

Agreed,—That sub-clause 32(1) be amended by striking out line 33 and substituting the following therefor: "section 27, the Board shall, subject to subsection (4) of" and

That sub-clause 32(3) be amended by striking out the lines 3 to 6 inclusive on page 17 and substituting the following therefor: "employees in that unit relate."

By leave, moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That paragraphs 35(1) (b) and (c) be amended by adding the word "and" after the semicolon line 9 and deleting the same word line 13.

Moved by Mr. Walker, seconded by Mr. Ethier,

Agreed,—That Clause 36 and marginal notes be struck out and the following substituted therefor:

"36. (1) Subject to subsection (2) of section 37, every bargaining agent for a bargaining unit shall, in such manner as may be prescribed, specify which of either of the processes described in paragraph (w) of section 2 shall be the process for resolution of any dispute to which it may be a party in respect of that bargaining unit.

"Specifica-
tion of
process for
resolution
of disputes.

(2) For the purpose of facilitating the specification by a bargaining agent of the process for resolution of any dispute to which it may be a party in respect of a bargaining unit, the Board shall, upon request in writing to it by the bargaining agent, by notice require the employer to furnish to the Board and the bargaining agent a statement in writing of the employees or classes of employees in the bargaining unit whom the employer then considers to be designated employees within the meaning of section 79, and the employer shall, within fourteen days after receipt of such notice, furnish such statement to the Board and the bargaining agent."

Employer to
furnish
statement.

By leave, moved by Mr. Walker, seconded by Mr. Bell,

Carried,—That paragraph 51(a) be amended by striking out lines 25 to 27 inclusive and substituting the following therefor: "referral thereof to arbitration," and by striking out line 41 and substituting the following therefor: "Act and a collective agreement has been entered into or an arbitral award has been".

Moved by Mr. Walker, seconded by Mr. Fairweather, and resolved

That Clause 52 be deleted together with marginal note and by leave, that Clauses 53 and 54 be renumbered as Clauses 52 and 53 respectively.

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That sub-clause 55(1) be amended by striking out lines 37 to 39 inclusive and substituting the following therefor:

"54. The Treasury Board may, in such manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the *Financial Administration Act*, enter into a"; and

That sub-clause 55(2) be renumbered as Clause 55.

By leave, moved by Mr. Walker, seconded by Mr. McCleave,

Agreed,—That sub-clause 56(2) be amended by striking out line 38 and substituting the following therefor: "Schedule C."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 57(2) be amended by striking out line 4 and substituting the following therefor: "the collective agreement shall, subject to subsection (5) of section 26, be";

That sub-clauses 57(3) and (4) together with marginal notes be deleted; and

That sub-clause 57(5) be amended by striking out line 24 and substituting the following therefor: "(3) Nothing in sub-section (2) shall be".

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That sub-clause 63(1) be amended by striking out line 39 and substituting the following therefor: "writing to the Secretary of the Board given"; and by striking out paragraph 63(1)(a) and substituting the following therefor:

"(a) at any time, where no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or".

Moved by Mr. Walker, seconded by Mr. Ethier,

Agreed,—That sub-clause 64(1) be struck out and the following substituted therefor:

"64. (1) Where notice under section 63 is received by the Secretary of the Board from any party requesting arbitration, the Secretary shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Secretary, by notice in writing of any matter, additional to the matters specified in the notice under section 63, that was a subject

of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,
Agreed,—That Clause 67 be amended by numbering the present clause as sub-clause 67(1) and by adding thereto the following sub-clause together with marginal note:

"(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof." "Where agreement subsequently reached."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,
Agreed,—That sub-clause 70(2) be amended by striking out lines 24 to 26 inclusive and substituting the following therefor:

"employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof."; and

That the marginal note to sub-clause 70(4) be deleted and the following substituted therefor: "Award to be limited to bargaining unit."

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That sub-clause 71(2) together with marginal note be struck out and the following substituted therefor:

"(2) A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof, the decision of the chairman of the Arbitration Tribunal, shall be the arbitral award in respect of the matters in dispute." "Decision."

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That sub-clause 72(2) be amended by striking out lines 27 and 28 and substituting the following therefor:

"on the parties but not before,

(a) in the case of an arbitral award rendered during the initial certification period, a day four months before the day specified in Column I of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case, the day on which notice to bargain collectively was given by either party."

Moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That sub-clause 73(2) and (3) together with marginal note be struck out and the following substituted therefor:

“(2) Subject to subsection (5) of section 26, no arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (a) or (b) of subsection (1), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties.”

Moved by Mr. Walker, seconded by Mr. Knowles,

Agreed,—That Clause 75 be struck out and the following substituted therefor:

“75. Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the matter back to the Arbitration Tribunal, and the Arbitration Tribunal shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 65.”

By leave, moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That paragraph 78(1)(a) be amended by striking out line 22 and substituting the following therefor: “under section 52 has made a final report to the”; and

That sub-clause 78(2) be amended by striking out line 40 and substituting the following therefor: “parties are unlikely to reach agreement, but before establishing such a board the Chairman shall notify the parties of his intention to do so.”

Moved by Mr. Walker, seconded by Mr. Emard,

Agreed,—That sub-clause 79(5) be amended by striking out line 41 and substituting the following therefor: “So informed by the Board.”

Moved by Mr. Walker, seconded by Hon. Senator Deschatelets,

Agreed,—That Clause 83 be amended by striking out line 3 and substituting the following therefor: “tion board a statement setting forth the”.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 94(1) be amended by striking out line 2 and substituting the following therefor: “adjudication, the aggrieved employee shall, in the manner pre-”;

That sub-clause 94(2) be amended by striking out line 10 and substituting the following therefor: “adjudication and the aggrieved employee has notified the chief”; and

That paragraph 94(2)(b) be amended by striking out line 19 and substituting the following therefor: “tion has been requested by the aggrieved employee”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 103(1) be amended by striking out line 44 and substituting the following therefor: “lawful and the Board, after affording an

opportunity to the employee organization to be heard on the application, may make such a declaration.”; and

That sub-clause 103(2) be amended by striking out line 8 and substituting the following therefor: “Board, after affording an opportunity to the employer to be heard on the application, may make such a declaration.”

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 109 be amended by striking out line 11 and substituting the following therefor: “form prescribed in Schedule D before any person authorized”.

By leave, moved by Mr. Walker, seconded by Mr. McCleave,

Agreed,—That Schedules B and C be re-lettered as Schedules C and D respectively, and that the following be added as Schedule B:

“SCHEDULE B.

Initial Certification Period.

	Column I	Column II	Column III
	(Day after which notice to bargain collectively may be given)	(Day after which collective agreement may be entered into or arbitral award rendered)	(Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Jan. 31, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969”

By leave, moved by Mr. Walker, seconded by Mr. Lewis,

Agreed,—That the said Bill be further amended by striking out Schedule C (formerly B) and substituting the following therefor:

“SCHEDULE C.

(SECTION 56).

Government Employees Compensation Act
Government Vessels Discipline Act
Public Service Employment Act
Public Service Superannuation Act”

At 1.00 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
 Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 29, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Yesterday all members of the Committee received copies of the draft amendments prepared by Dr. Davidson and his staff over the weekend while we were looking at the football game. We will proceed with the first suggested amendment, which is to clause 2 page 2, line 19. Mr. Walker, are you ready to move this?

Mr. WALKER: Yes, if there is no discussion. Mr. Chairman, I suggest that anybody who has a particular interest in the various amendments should just speak up and move them as they are introduced. I will move the ones that nobody else wants to touch.

The JOINT CHAIRMAN (*Mr. Richard*): The first amendment is to page 2, line 19, which is to be struck out and replaced. The only change is "section 52".

Mr. WALKER: I move that clause 2 of Bill No. C-170, an act respecting employer and employee relations in the Public Service of Canada, be amended by striking out line 19 on page 2 and substituting the following:

Chairman under section 52 to assist the parties.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next suggested amendment is to clause 2, paragraphs (m) and (n). These are to be struck out and replaced.

Mr. BELL (*Carleton*): Did Dr. Davidson indicate the reason for importing the word "confidential" with "managerial capacity"? Is the test of confidentiality to be subjective or objective?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, might I just point out that the words in the definition are not changed in this respect. All that happens is that in designating more clearly what groups we are seeking to define we have tried to meet the point that was raised by Mr. McCleave at an earlier meeting. Mr. McCleave raised the point that while he did not necessarily object to the inclusion of all these categories in this group of persons being excluded, he thought it was stretching things rather far to refer to a confidential messenger, for example, as a person who is employed in a managerial capacity. It was in an effort to satisfy Mr. McCleave that we changed the lead phrase without changing the content of the definitions that relate to the lead phrase.

Mr. LEWIS: What exactly do you have in mind for "confidential?"

Dr. DAVIDSON: The only references to "confidential", Mr. Lewis, are the references that were already in the definition at the time the Committee reviewed it earlier, and those are the references shown under clauses 2(u)(i) and

2(u) (vi), a person who is employed in a position confidential to the offices listed under clause 2(u)(i), and a person employed in a position confidential to any person described in clause 2(u) (ii), (iii), (iv) or (v). So those remain unchanged, but we merely added the reference in the lead words to "confidential", to try to meet Mr. McCleave's point that these people, if they were to be excluded—and that is a separate question—should not be excluded by being referred to as "persons employed in a managerial capacity", but should rather be excluded as persons employed in a capacity that is more accurately described as a "confidential" capacity.

Mr. BELL (*Carleton*): I am not sure that Mr. McCleave's point has been met on this and whether we are not excluding a very much broader category than was intended. That is why I asked whether the test of confidentiality was to be subjective or objective. The fact is that every secretary occupies a confidential position towards her chief. If the mere fact of occupying a confidential position towards another is going to exclude them from collective bargaining, we have gone an awfully long distance. If what is meant is that it is a confidential position, then that is something quite different. But to say that a person is employed in a confidential capacity seems to me to be carrying it very, very far indeed.

Dr. DAVIDSON: Mr. Bell, may I try to answer that question by pointing out that when you put these words in the definition shown on page 4 the definition will read as follows:

"person employed in a managerial or confidential capacity" means any person who

- (i) is employed in a position
confidential to the Governor General,"

and so on. Or, going down to (vi), a person

"who is employed in a position confidential to any person described in subparagraph (ii), (iii), (iv) or (v)."

I would argue, with respect, that there has been no change whatever in the coverage of the definition. All that has changed is the label that is being applied, and, of course, there is no particular reason from the staff point of view why these words "or confidential" should be put in unless the Committee feels that it will clarify what is meant by this group of persons without extending the range of the definitions themselves.

Mr. LEWIS: Mr. Chairman I tend to agree, with Dr. Davidson that the inclusion of the word "confidential" at this particular spot probably does not expand what is said in subclause (u). I apologize for not being here the last time this section was discussed, but I was rather disappointed—we will come to that later—that some of these subclauses in (u) had not been changed. Do you not think, Mr. Bell, that Dr. Davidson is probably right, that if you read the general statement at this point about the exclusion of "managerial" and "confidential", then you go on to subclause (u) where managerial and confidential are defined?

Mr. BELL (*Carleton*): I am inclined to think when I look at subclause (u) that this is correct. Perhaps Dr. Ollivier will say that he thinks there is no change in meaning as a result of this.

Dr. P. M. OLLIVIER (*Parliamentary Counsel*): I have not made a special study of it. I am relying on Dr. Davidson.

Mr. LEWIS: The definition in subclause (u) is what controls.

Mr. BERGER: Subclause (u) is the controlling definition.

Mr. LEWIS: It is what defines what "confidential" means.

Mr. WALKER: I move that clause 2 of the said Bill be further amended by striking out paragraphs (m) and (n) thereof and substituting the following:

(m) "employee" means a person employed in the Public Service, "Employeee." other than

(i) a person appointed by the Governor in Council under an Act of Parliament to a statutory position described in that Act,

(ii) a person locally engaged outside Canada,

(iii) a person whose compensation for the performance of the regular duties of his position or office consists of fees of office, or is related to the revenue of the office in which he is employed,

(iv) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,

(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,

(vi) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,

(vii) a person employed by or under the Board, or

(viii) a person employed in a managerial or confidential capacity,

and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament;

(n) "employee organization" means any organization of employees the purposes of which include the regulation of relations between the employer and its employees for the purposes of this Act, and includes, unless the context otherwise requires, a council of employee organizations; "Employee organization."

Motion agreed to.

Mr. LEWIS: Did we carry (n) as well?

The JOINT CHAIRMAN (*Mr. Richard*): I am sorry?

Mr. LEWIS: When you say the amendment is carried, do you mean both (m) and (n), because I would like to ask what you mean by the addition "for the purposes of this Act"?

Dr. DAVIDSON: This was an effort, Mr. Chairman, on our part to sharpen up and define what is intended to be covered by this definition of an "employee organization". I suppose it is conceivable that without these added words we might include the R.A.—

Mr. LEWIS: Fraternal organizations—

Dr. DAVIDSON: —or other organizations which have as their object purposes that are not within the purview of this legislation.

The JOINT CHAIRMAN (*Mr. Richard*): Next is clause 2, subclauses (p), (q), (r) and (s). You all have a copy of the amendment.

Mr. WALKER: I move that clause 2 of the said Bill be further amended by striking out paragraphs (p), (q), (r) and (s) and substituting the following: "Grievance."

(p) "grievance" means a complaint in writing presented in accordance with this Act by an employee *on his own behalf or on behalf of himself and one or more other employees*, except that

(i) for the purposes of any of the provisions of this Act respecting grievances, a reference to an "employee" includes a person who would be an employee but for the fact that he is a person employed in a managerial or confidential capacity, and

(ii) for the purposes of any of the provisions of this Act respecting grievances with respect to disciplinary action resulting in discharge or suspension, a reference to an "employee" includes a former employee or a person who would be a former employee but for the fact that at the time of his discharge or suspension he was a person employed in a managerial or confidential capacity;

"Initial certification period."

(q) "initial certification period" means, in respect of employees in any occupational category, the period ending on the day specified in Column III of Schedule B applicable to that occupational category;

"Occupational category."

(r) "occupational category" means any of the following categories of employees, namely,

(i) scientific and professional,

(ii) technical,

(iii) administrative and foreign service,

(iv) administrative support, or

(v) operational,

and any other occupationally-related category of employees determined by the Board to be an occupational category;

"Occupational group."

(s) "occupational group" means a group of employees specified and defined by the Public Service Commission under subsection (1) of section 26;

Mr. CHATWOOD: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment suggested is to subclause (u) of clause 2. You have a copy of the amendment in your hand. Are there any comments?

Mr. LEWIS: I would appreciate it very much if you took this subclause by subclause, Mr. Chairman. I think this is a key section of the act, in that it deals with possible exclusions.

Mr. WALKER: I move: that paragraph (u) of clause 2 of the said Bill be amended (a) by striking out line 9 on page 4 and substituting the following:

(u) "person employed in a managerial or confidential capacity". "Person employed in a managerial or confidential capacity."

Senator FERGUSON: I second the motion.

Motion agreed to.

Mr. WALKER: I move that paragraph (u) of clause 2 of the said Bill be amended (b) by striking out lines 15 and 16 on page 4 and substituting the following: head of a department or *the* chief executive officer of any *other* portion of the;

Mr. LEWIS: You have just added the word "other".

Dr. DAVIDSON: This is really a correction.

Senator FERGUSON: I second the motion.

Motion agreed to.

Mr. WALKER: I move that paragraph (u) of clause 2 of the said Bill be amended by striking out line 33 on page 4 and substituting the following: *administrator* or who has duties that cause him to

Mr. LEWIS: Mr. Chairman, I must apologize to you and the Committee. I was not here when this was discussed last time and I may be repeating what was said. I do not like the words

"cause him to be directly involved in the process of collective bargaining on behalf of the employer".

If you mean that he represents the employer in collective bargaining, why do you not say so? If you mean more than that, what do you mean?

Dr. DAVIDSON: First of all, Mr. Chairman, may I point out that we have changed the word "officer" to "administrator". This was a suggestion offered by one of the staff associations for the purpose of relating the expression used here, "personnel administrator", to the classification of personnel administrator that is used as part of the formal and official classification system. This really means that any person whose duties include those of a personnel administrator in a department or agency, as well as in a central agency, would be covered by this definition.

The second part, a person who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer,

I think, if my interpretation is correct—and I am subject to correction by Mr. Love here—that this means that persons, other than persons whose duties include those of personnel administrator, who have been assigned duties which involve them directly in the collective bargaining process are, because of the fact that they have been assigned duties that involve them directly in the collective bargaining process on behalf of the employer, automatically included in this definition. But this, as you realize, is subject to the proviso that the bargaining agent may challenge the employer's attempt to include an individual within the scope of this definition and, if that is challenged, the board makes the final decision.

Mr. LEWIS: Mr. Chairman, I am not terribly impressed by that, because if I were the board and I read this language my decision is pretty well predetermined, or it may be. Here is a person, for example, who is employed at the Pay Research Bureau. I suppose you have machine operators there or computer operators.

Dr. DAVIDSON: Mr. Chairman, Mr. Love and I both agree that the person who is working at the Pay Research Bureau is not directly involved in the process of collective bargaining.

Mr. LEWIS: My point, Dr. Davidson, is that I have no case to be made that they are that kind of person because they calculate the figures, come up with an answer and give it to somebody, and it forms a part of the bargaining that that person is engaged in some capacity that you—

Dr. DAVIDSON: Mr. Lewis, may I just interject by suggesting to you that that may well be true of a pay research unit in an employer organization but I do not think, unless I am mistaken, that there is any counterpart, even in your extensive experience, of a pay research bureau set up as a completely neutral agency designed to serve the interests of both parties at the bargaining table by providing them with basic factual information. Am I wrong in that?

Mr. LEWIS: No, you are not. There is certainly that difference. Why do you need such involved language as "directly involved in the process"? Why do you need language that is so wide? Why cannot we simply say, "or who has duties that cause him to participate in the process of collective bargaining on behalf of the employer"?

Dr. DAVIDSON: Could we take a look at the question of the involved language?

Mr. LEWIS: If he participates in the process, I can see the words "directly involved", although "directly" is a bit of a safeguard. I fear it is a little too wide.

Dr. DAVIDSON: Before we leave this—and we will undertake to take a look at it—could I just raise the question of your suggested use of the word "participate"? It seems to me that we have to be careful to use a form of wording that results not merely in the person who is in a given negotiation actually participating in that negotiation, but rather a person whose duties require him to participate, as the occasion requires, in the process of collective bargaining on behalf of the employer. The important thing is that if participation in the processes of collective bargaining is one of the standing responsibilities and duties of this individual he should be included in this definition, and he should

not be put in the position where during one negotiation where he is an active participant in a bargaining session he is covered by the definition and during another time of the year when he is not actively and directly participating he is not included in this definition.

Mr. LEWIS: I agree. I do not think your fear is justified, Dr. Davidson, because once he is excluded from the bargaining unit he is excluded from the bargaining unit for the life of the agreement and probably thereafter. Once a certification is issued, and this particular position is included in the bargaining unit, he is just not in the bargaining unit, he is excluded. Well, I do not want to take any more time. I just raised the point that the words, "cause him to be directly involved in the process", seem to me too wide.

Senator FERGUSON: I second the motion.

Motion agreed to.

Dr. DAVIDSON: Mr. Chairman, could I have the Committee's indulgence for just one minute to suggest a small technical change that is not in the list before the Committee? It has to do with line 38 on this page:

who is required by reason of his duties and responsibilities to deal formally

Insert the words, "on behalf of the employer". We wish to make it clear that these people who are excluded by this definition from the bargaining unit are only those who deal with grievances on behalf of the employer.

Mr. WALKER: I so move.

Motion agreed to.

Mr. LEWIS: I thought Dr. Davidson said he would look at the point I raised on (c), and you just said "carried".

The JOINT CHAIRMAN (*Mr. Richard*): Yes, you said you had no further objections.

Mr. LEWIS: No. I said I did not want to take any more time, but Dr. Davidson said he would look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Well, do you want to look at it, Dr. Davidson?

Mr. KNOWLES: We want him to look at it.

The JOINT CHAIRMAN (*Mr. Richard*): I am talking to the Committee, Mr. Knowles. I want to know if the Committee wishes to...

Mr. KNOWLES: Accept Dr. Davidson's offer to look at it? Yes.

The JOINT CHAIRMAN (*Mr. Richard*): That is all.

Mr. LEWIS: Dr. Davidson will come back and report to us after he has looked at it.

Dr. DAVIDSON: I can undertake that, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Stand clause (c). Next is the amendment to Clause (d).

Mr. WALKER: I move that paragraph (u) of clause 2 of the said Bill be amended (d) by striking out line 47 on page 4 and substituting the following: would create a *clear* conflict of interest.

Mr. BELL (*Carleton*): What is the difference between "conflict of interest" and "clear conflict of interest"?

Mr. KNOWLES: Well, "conflict of interest" is clear.

Dr. DAVIDSON: Obviously you cannot win on this because, Mr. Bell, you may recall that you asked us to take a look at some of the suggestions that had been made in particular on some of these definitions by the Professional Institute. We have made a number of changes in an effort to meet some of these points, and one of the changes that we felt we could make was the change in wording "but for whom membership in a bargaining unit would create a clear conflict of interest." The Professional Institute wanted us to go even further than this and say: "would create a clear and irreducible conflict of interest". I did not feel that we could accept the word "irreducible", but I did feel that we could go half way to meeting the concern of the Institute, and it is a legitimate concern, it seems to me. This is, after all, the catch-all clause to which some objection has been taken, and it has been argued in this Committee that it is inevitable in the nature of the employer-employee relations that every employee is in a position where there is a conflict of interest between his duty to his employer and his duty to the bargaining unit.

Personally I do not accept that proposition, but I think we do wish to make it clear that the persons to be covered by subclause (vii) here should be persons where there is a very real conflict of interest, a meaningful conflict of interest, and not just one that can be theorized as a conflict of interest which has no significance in the day to day relationships.

Mr. LEWIS: Mr. Chairman, I suppose this is going over ground that has been gone over, but I think that subclause (vii) is an unnecessary clause and one which is based on a totally false philosophy concerning collective bargaining. An employer frequently assumes that because an employee is in a bargaining unit there is a conflict of interest between his work for the employer and his membership in the bargaining unit. It just is not true, and I cannot for the life of me see the person anybody can have in mind who is not already covered by the extensive exclusions that the rest of the clause contains. If there is anyone whom you cannot bring under any of the headings of "confidential" for "managerial", then there simply cannot be a conflict of interest as representing the employer in the collective bargaining process, which is surely all that we are interested in. I just simply do not see the slightest reason for this catch-all phrase except that somebody—and I am not accusing anybody—is so distrustful of the collective bargaining process, and I cannot put it any other way—so distrustful of the collective bargaining process that they want to have some clause under which they can find some way to yank someone out of the collective bargaining unit. There is no possible justification for this clause. I would like to hear from Dr. Davidson or any one of his officers what kind of person and what kind of position they have in mind. If you had a bargaining unit tomorrow, who would be affected by the presence of this subclause who is not already capable of being included in any one of the other subclauses? Give me one example.

Dr. DAVIDSON: Mr. Chairman, I have already given one example to the Committee on a previous occasion and I will repeat that example, but could I merely say that if those who drafted this bill are distrustful of anything, it is not, I assure the Committee, the collective bargaining process as Mr. Lewis suggests. It is that they are rather. . .

Mr. LEWIS: You keep on building these fences around it.

Dr. DAVIDSON: It is, rather, that they are distrustful of their omniscience and of their ability to foresee precisely at this point in time every conceivable situation where there might be a legitimate basis for the employer putting to the employee organization and to the board the proposition that in a given situation there is a conflict of interest which justifies that person's exclusion from the bargaining unit. I say that if we are distrustful of anything we are distrustful of our ability at this point in time to predict every conceivable instance where that would be a justifiable proposition.

Mr. LEWIS: May I interrupt, Dr. Davidson, to ask why do you have the Staff Relations Board? That is a matter of experience, and if subclause (vii) said something like this:

“or anyone who in the opinion of the Board, should not be a member of a bargaining unit”

I would have no objection. If you come to the Board with an argument that so and so—although he does not fall precisely under one of the headings prior to this—for the following reasons should be excluded, and you leave it to the Staff Relations Board to make that decision on the basis of information proposed and brought to it, I would have no objection.

Dr. DAVIDSON: But surely, Mr. Chairman, that is the exact effect of the clause as it is drafted.

Mr. LEWIS: No, because “a conflict of interest” is far too wide a phrase.

Dr. DAVIDSON: Mr. Chairman, with respect could I ask Mr. Lewis to turn his attention to lines 20 to 29, which govern all of the subclauses (iii), (iv), (v), (vi) and (vii)? Lines 20 to 29 clearly provide that where the employer thinks he is justified in putting up for exclusion an individual coming under this, he first of all in effect puts in to the union and if the union agrees, that person is so excluded. If the union disagrees, then it is put to the board to decide. Does this not, in fact, result in the same thing?

Mr. LEWIS: Yes, that is why you do not need the final subclause (vii). I am sorry I interrupted you. What was the example you gave?

Dr. DAVIDSON: Before giving my example could I merely point out to you, Mr. Lewis, that in dealing with managerial exclusions we are certainly limiting the managerial exclusions in the Public Service Staff Relations bill much more strictly than the managerial exclusions are limited in the legislation dealing with outside industrial relations. The Industrial Relations and Disputes Investigation Act has a far more extensive provision for managerial exclusions than does this legislation, because every person at any supervisory level is automatically excluded, as I understand it, under the Industrial Relations and Disputes Investigation Act.

Mr. LEWIS: I beg your pardon.

Dr. DAVIDSON: Is that not correct?

Mr. LEWIS: No, sir. The definition does include a manager or superintendent or any other person who, in the opinion of the board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations.

Dr. DAVIDSON: Yes, and then it goes on to refer to groups of people, members of certain professional classes.

Mr. LEWIS: Yes, but they are different; they are under a separate act.

Dr. DAVIDSON: Perhaps I overstated the proposition, but I would still contend that the managerial exclusions, particularly in the supervisory ranges, are more extensive under the Industrial Relations and Disputes Investigation Act than they are under this legislation because there is no provision that supervisors as supervisors are excluded here.

To come to the point that Mr. Lewis has made, the example I gave before is the example of a supervisor in a hierarchical structure who is supervising a supervisory person at a lower level, designated to deal with a grievance at the first level of the grievance procedure. The second line supervisor is bypassed, and he in turn is responsible to a supervisory type at the regional office, who is responsible for dealing with grievances at the second level of the grievance procedure. In that situation you will have a supervisor who is in between two supervisors—one below and one above him—each one of whom, because of their responsibilities for processing grievances, are excluded under subclause (v). In these circumstances it seems to us that it would be logical and necessary to argue that the intermediate supervisor—

Mr. LEWIS: Certainly, and do you think that the board, if it has any sense at all, is going to leave in the bargaining unit a supervisor who is above one who is not in the bargaining unit? You do not need this to do that. What frightens me about subclause (vii) is that you could have a supervisor who supervises people who have no authority at all other than assigning work—what in outside industry is called a “straw boss” or a “lead hand” or a “charge hand”—and who has no authority. You make an argument that because he or she supervises 300 people, or has the duties of assigning work to 300 people, there is a conflict of interest by reason of those duties. So long as the words are there the person representing the organization would have a tough time persuading the board that there is not something in there. I say to you that no board will leave in a bargaining unit someone above somebody who is excluded from the bargaining unit. You do not need subclause (vii) for that.

Dr. DAVIDSON: Mr. Chairman, could I just ask Mr. Lewis under what clause he would see that person as being excluded?

Mr. LEWIS: Under the general—

Dr. DAVIDSON: There is no general provision at all. This is the general provision.

Mr. LEWIS: You are assuming for one thing, Dr. Davidson, that the certification will indicate all the classes that are excluded; that you are going to get a

certificate that will say all the classes above such and such a class are excluded. To answer your question I would have to take a precise look at this matter that is before us.

Dr DAVIDSON: Could I say to Mr. Lewis I sincerely believe that there would be no provision under any of the other subclauses for exclusion of the type of person I used by way of illustration. I fail to see where any other—

Mr. LEWIS: I could certainly put him under subclause (vi).

An hon. MEMBER: Confidential?

Mr. LEWIS: Well, he certainly is if he is the supervisor. I am sure you can find a place for this particular person you have designed in any one of these. You can put him under subclause (v) "who is required by reason of his duties and responsibilities to deal formally with a grievance" because in normal circumstances the supervisor under him might deal with him, but sure as blazes he will be consulting the supervisor above him. "Deal" does not necessarily mean only sitting across the table discussing the grievance. I cannot visualize that the bottom supervisor will take an action without consulting the supervisor above him at some stage. I cannot see any reason for this. I think the example you gave could be dealt with easily, and I think this is such a wide exclusionary clause that it should not be here.

Dr. DAVIDSON: Could I merely draw to Mr. Lewis' attention that as far as subclause (v) is concerned it applies only to those persons required to deal "formally" on behalf of the employer with the grievance presented. Certainly the mere fact of the supervisor who is in between the other two supervisors being consulted, or talking to his upper or lower supervisor, would not involve him as a person who is required to deal "formally" with the grievance procedure.

Mr. LEWIS: I am ready to move the deletion of this subclause, but because we have gotten along without this kind of thing I urge Dr. Davidson to consider replacing this clause, despite the fact he said that the board makes these decisions. But the Board makes the decisions on the basis of—let me now argue this point—the precise category set out in subclauses (iii), (iv), (v) and (vi), and if he wants a catch-all the only proper one, in my respectful submission, is one that will say, "or who, in the opinion of the board, should be excluded by reason of his duties and responsibilities to the employer." If you put it that way and you leave it to the board, I have no objection.

Dr. DAVIDSON: Mr. Chairman, could I offer a suggestion here that I think might meet Mr. Lewis' point? I would certainly be prepared to consider something along the line that he suggests if this clause were brought up as subclause (iii) and were to be inserted ahead of lines 20 to 29—

Mr. LEWIS: I have no objection.

Dr. DAVIDSON: —because obviously there is no point in saying the thing twice. Subclause (iii), it seems to me, could be inserted before line 20 and it would simply refer to a person whose membership in a bargaining unit would in the opinion of the board, create a clear conflict of interest by reason of his duties and responsibilities to his employer.

Mr. LEWIS: May I suggest the wording I gave? I honestly do think it is better. It is better from your point of view. It gives the board wider latitude. I

think all it should say is: "a person who, in the opinion of the board, should not be a member of a bargaining unit by reason of his duties and responsibilities to the employer." Any reason would be satisfactory; "conflict of interest" or "his particular position" or anything else. I am prepared to leave to the board the job of developing the jurisprudence out of the experience as to what class is properly within the unit. I do not think we should write that.

Dr. DAVIDSON: I am quite agreeable to bringing back for the consideration of the Committee, Mr. Chairman, a wording that would attempt to meet this.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause (c), then.

The next amendment is to clause 8. We will take the first paragraph (a).

Mr. WALKER: I move that clause 8 of the said Bill be amended (a) by striking out lines 17 and 18 on page 6 and substituting the following:

Employer participation in employee organization, 8. (1) No person who is employed in a managerial or confidential capacity, whether or not he is acting on behalf of the em-;

Senator FERGUSON: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Paragraph (b) is next.

Mr. WALKER: I move that clause 8 of the said Bill be amended (b) by striking out line 15 on page 7 and substituting the following: in a managerial or confidential capacity.

Senator FERGUSON: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment is to clause 9.

Mr. WALKER: I move that clause 9 of the said Bill be amended (a) by striking out line 23 on page 7 and substituting the following: employed in a managerial or confidential capacity, whether or not he acts on; and (b) by striking out line 27 on page 7 and substituting the following: to prevent a person employed in a managerial or confidential capacity.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Next is the proposed amendment to clause 16.

Mr. BELL (*Carleton*): Are we passing over any sections which have stood previously?

Dr. DAVIDSON: We are still examining clause 7, and I would ask the Committee to recall that we still have something to report back on that.

Mr. WALKER: You are holding clause 7?

Dr. DAVIDSON: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 16.

Mr. KNOWLES: You seem to have met the points we raised on clause 16.

The JOINT CHAIRMAN (*Mr. Richard*): Next is paragraph (a) of the amendment to clause 16.

Mr. WALKER: I move that clause 16 of the said Bill be amended (a) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) at least two other members to be designated by the Chairman *in such a manner as to ensure that the number of members appointed as being representative of the interests of employees equals the number of members appointed as being representative of the interests of the employer.*;

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Next is paragraph (b) of the amendment to clause 16.

Mr. BELL (*Carleton*): You contemplate that the chairman and the vice-chairman may attend meetings, but only one vote?

Mr. WALKER: Yes, I move that clause 16 of the said Bill be amended (b) by striking out subclause (3) thereof and substituting the following:

(3) A decision of a majority of those present at any meeting of the Board, or of a division thereof, is a decision of the Board or the division thereof, as the case may be, except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote. Decision of majority.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment is to clause 17.

Mr. WALKER: I move that the said Bill be further amended by striking out clause 17 and substituting the following:

17. (1) The Chairman is the chief executive officer of the Board. Chairman to be chief executive officer.

(2) A Secretary of the Board shall be appointed under the provisions of the *Public Service Employment Act*, who shall under the Chairman have supervision over a direction of the work and staff of the Board. Appointment of Secretary.

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the *Public Service Employment Act*. Other staff.

(4) The Chairman may appoint and, *subject to the approval of the Governor in Council*, fix the remuneration of, conciliators and other experts or persons having technical or special knowledge to assist the Board in an advisory capacity. Appointment of experts and advisers.

Dr. DAVIDSON: Could I say, Mr. Chairman, that here we are endeavouring to meet the concern of the Committee for the overload of responsibility placed on the shoulders of the chairman, and by this redrafting we have provided that the Secretary of the Board shall be capitalized, which is designed to elevate his status somewhat, and that he shall be given the responsibility of supervising and directing the work and staff of the Board.

This is to make it clear that the chairman, while still technically the chief executive officer, has under him a senior official who is capable of taking the responsibility for the day to day operations of the bureaucratic machinery of the board.

Mr. LEWIS: The secretary becomes the administrative officer under the chairman.

Mr. KNOWLES: A kind of deputy minister.

Dr. DAVIDSON: No, this is why the appellation "chief executive officer" remains with the chairman, because he still exercises the functions of a deputy head.

Mr. BELL (*Carleton*): Why do we have this "subject to the approval of the Governor in Council" for the first time?

Dr. DAVIDSON: I am sorry, I forgot to draw this to the attention of the Committee. This is inserted here, Mr. Chairman, because as we reviewed this it was considered rather unusual to have the chairman of the Public Service Staff Relations Board given the responsibility of fixing remuneration when, for example, in the corresponding setting, the Industrial Relations and Disputes Investigation Act, the Minister of Labour has no such authority. This would, in effect, be giving to the chairman of the Public Service Staff Relations Board a prerogative which is not the prerogative of the Minister of Labour, who acts in a corresponding situation.

Mr. BELL (*Carleton*): But, with respect, I do not think that the situations are at all comparable. The situation here is that by indirection you are giving the employer supervision over the appointment of conciliators and the employer can say, "If you appoint conciliator 'A' he may be paid so much, but if you appoint conciliator 'B' he will be paid a lesser amount." I venture to suggest that you are opening a door here to a technique where the Governor in Council, as the employer, can exercise full supervision over the appointment of conciliators.

Dr. DAVIDSON: I cannot seriously believe that this would be the result, Mr. Bell, and it does seem to me that there is a pretty fundamental question at issue here. I do not know any other provision in law that delegates to a chairman of any board under federal administration the right to fix rates of remuneration. This is intended, frankly, to be purely pro forma; that the Governor in council—not the Treasury Board—should set the rates of remuneration. This is already provided elsewhere in clause 80, subclause (7), with respect to conciliation boards.

The members of a conciliation board are entitled to be paid such per diem or other allowances with respect to the performance of their duties under this Act as may be fixed by the Governor in Council.

I think it is also applicable to the arbitration tribunal. It is the Governor in Council who sets the rate of remuneration of the chairman of the Public Service Staff Relations Board, and in the interests of consistency it seems to me, as well as the other arguments that have been advanced, that it would be rather an exception to the general rule that prevails throughout the legislation if, in the case only of the remuneration of conciliators or persons having expert knowledge, there should be an exception to the general proposition that rates of remuneration are fixed with the approval of the Governor in Council.

Motion agreed to on division.

The JOINT CHAIRMAN (*Mr. Richard*): The next proposed amendment is to subclause (1) of clause 19.

Mr. WALKER: I move that subclause (1) of clause 19 of the said Bill be amended (a) by striking out paragraph (f) and substituting the following:

(f) the rights, privileges and duties that are acquired or retained by an employee organization *in respect of a bargaining unit or any employee included therein* where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations; and

(b) by striking out paragraph (k) and substituting the following:

(k) the authority vested in a council of employee organizations that shall be considered to constitute appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;.

Mr. BELL (*Carleton*): The amendment in paragraph (a) is for the purposes of clarification?

Dr. DAVIDSON: Yes.

Mr. KNOWLES: On paragraph (b), Mr. Chairman, why do you have to repeat yourself? First of all, I see what you are doing, you are cutting down the authority of the Governor in Council to tell the units within a council how they behave toward each other, but I am looking now at the revised draft:

the authority vested in a council of employee organizations that shall be considered to constitute appropriate authority. . .

Are you not saying to make regulations respecting the authority that shall really be authority? Why do you have to add these extra words? Would you ever pass a regulation respecting authority that was not considered to be authority?

Dr. DAVIDSON: No, because there is no authority in (k) as it is worded to do that. All the Governor in Council has authority to do under this regulation is to prescribe what shall be appropriate authority. I think "appropriate authority", Mr. Knowles, is picked up from the Ontario Labour Relations Act.

Mr. KNOWLES: You told us the other day you had a Presbyterian background. Well, let your yeas be yea.

Dr. DAVIDSON: Do not accuse me of guilt by association. The "appropriate authority" is referred to in clause 28. There is a new amendment coming up to clause 28, which will refer to each of the employee organizations forming a council. There has to be satisfactory evidence that each employee organization forming a council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent. If that is the requirement of clause 28, then this is authority to the board,—not the Governor in Council, Mr. Knowles,—to make regulations that will deal with—it seems to me that this could be worded differently.

Mr. LEWIS: Yes. What you want to say is that you want to make regulations that will enable them to carry out what...

Dr. DAVIDSON: "What shall be considered to constitute appropriate authority vested in a council of employee organizations within the meaning of paragraph (b) of subsection (2) of Section 28."

Mr. KNOWLES: I think you had better take another look at it.

The JOINT CHAIRMAN (Mr. Richard): Paragraph (b) stands. The amendment in paragraph (a) is agreed to.

By leave of the Committee there is a small amendment to subclause (1) of clause 20.

Mr. WALKER: I move that subclause (1) of clause 20 of the said Bill be amended by striking out line 38 on page 11 and substituting the following:

Complaints. 20. (1) The Board *shall* examine and inquire into

Motion agreed to.

Dr. DAVIDSON: Mr. Chairman, could I just interject for Mr. Bell's benefit that the fact that we have passed clauses 4 and 5 does not mean that we have overlooked the question of the references to the *Canada Gazette*. If you will remind me I will come back to that at a later stage.

The JOINT CHAIRMAN (Mr. Richard): The next proposed amendment is to clause 23.

Mr. WALKER: I move that the said Bill be amended by striking out clause 23 and substituting the following:

Questions of
law or juris-
diction to be
referred to
Board.

23. Where any question of law or jurisdiction arises in connection with a matter that has been referred to the Arbitration Tribunal or to an adjudicator pursuant to this Act, the Arbitration Tribunal or adjudicator, as the case may be, shall refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, *but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof.*

Mr. LEWIS: Would you consider changing the first word in line 7 from "shall" to "may", thereby leaving it to the arbitration tribunal or the adjudicator to deal with the matter if they feel competent to do so?

It is just a thought that occurred to me, Mr. Chairman. It seems to me to give it a little more flexibility.

Dr. DAVIDSON: One of the concerns that enters into this is that in one particular situation an arbitrator may think that he is dealing with a point that is of no particular consequence or has not arisen before. There may, in fact, have been a precedent for this in a reference to the board which resulted in the board taking a position. The problem is that the second arbitrator in these circumstances could conceivably be moving ahead and dealing with a situation without the knowledge of the board, and arrive at a decision in circumstances which would conflict with a precedent previously established.

Mr. LEWIS: But the opposite creates a greater danger of, may I say, two things: First, you could have a matter of law or jurisdiction decided by the board. That being so, why should a similar matter go back to the board? The arbitrator or the adjudicator should be in a position to say, "This has already been decided by the board. Here is the decision. I do not need to go back."

The second thing that I think we ought to keep in mind is that there will be two parties before the tribunal, and if either the employer or the union wants to say "This is a matter of law or jurisdiction which is not decided; I, therefore, move that it go to the Board", you leave it to them and, if the case is made out, he will. But what this means is that every time a point of law or jurisdiction comes up he has got to go to the Board, even though the matter has already been decided by the Board on a previous occasion. It seems to me to be an unnecessary requirement.

Dr. DAVIDSON: If you look at the last part of this clause, Mr. Lewis, you will see that although the reference to the board is necessary, the proceedings do not go under suspension unless the board considers that the point referred to them is of sufficient importance to justify their directing that the proceedings be suspended.

Mr. LEWIS: I suppose it is the difference between the practitioner and the theoretician. I can tell you, Dr. Davidson, that if a matter of law or jurisdiction comes up and the act says that they must go to the Board, then either side, if it suits its purpose, will say, "I am not really prepared to go on with the rest of this case until I know what the decision on this point of law or jurisdiction is", and your safeguard that he need not suspend will, in practice, mean very little.

I repeat that you will have points of law and jurisdiction decided by the board that will be a guide to your inferior tribunal. Why should he have to go back to the board every time such a point arises? Why can you not just leave it to him, and to the parties to persuade him, to go to the board when necessary; but if he has already got a decision from the board that he can apply, he applies it, and goes on with his adjudication.

That is all. I am not going to take any more time, because this is not an earth-shaking question, but it seems to me to put in a point of inflexibility again where there is no need for it.

Dr. DAVIDSON: We will look at it, Mr. Chairman. I am not yet persuaded that it is safe or advisable to court the inconsistencies that could arise if this were made "may" rather than "shall".

The JOINT CHAIRMAN (*Mr. Richard*): Shall the amendment to clause 23 stand?

Some hon. MEMBERS: Agreed.

On clause 26—*Specification of occupational categories and date of eligibility for collective bargaining.*

Mr. WALKER: I move that the said Bill be further amended by striking out clause 26 and substituting the following:

Specification of occupational groups. 26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision. (2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made. (3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period. (4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

- (a) all of the employees in an occupational group;
- (b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or
- (c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Times relating to commencement of collective bargaining during initial certification period. (5) During the initial certification period, in respect of each occupational category,

- (a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and
- (b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

(6) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purposes of this Act, the Board shall, at the time of making the determination,

Other
occupational
categories.

(a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 26 (1) is a new clause.

Mr. LEWIS: As I have been so critical many times, may I say that this redraft strikes me as a very intelligent one.

Dr. DAVIDSON: From a practical or a theoretical point of view, Mr. Lewis?

Mr. LEWIS: Both.

Clause 26, as amended, agreed to.

Dr. DAVIDSON: May I say, Mr. Chairman, that our difficulties on second reading are arising in the most unexpected places.

The JOINT CHAIRMAN (*Mr. Richard*): What happens to clause 25, Dr. Davidson?

Dr. DAVIDSON: Yes; I am sorry. Mr. Love has dealt with the Department of Justice officers on this and can perhaps speak on it better than I.

Mr. J. D. LOVE (*Assistant Secretary, Personnel Policy Branch, Treasury Board*): Mr. Chairman, we have taken this up with the legal draftsmen, who are reluctant to effect any change in the clause. They point out that a provision of this kind is very common in statutes relating to administrative boards. They point out that it would be very unusual if the board did not, in fact, give notice to affected parties where a matter of substance was involved; but they are really arguing that the precedents do not call for the type of change that has been suggested.

I recognize that an argument based on precedents may not be regarded as an overly-persuasive one; nonetheless, the legal officers would be concerned about the prospect of making a change that would make notice a statutory requirement.

Mr. LEWIS: I suppose you can drag the board on *certiorari* into court if they do not give you natural justice.

Mr. LOVE: That I think, is right.

Mr. BELL (*Carleton*): We discussed this at some length the other day, and I am not going to repeat the arguments that were made then, Mr. Chairman. I agree that there are plenty of precedents, but I think that all the precedents are bad precedents, and if there should be a requirement of notice to affected parties in this, we would have to carry on division so far as I am concerned.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 25 carry?

Clause 25 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On division.

You will notice, in the papers submitted to you, that there is a further amendment that schedules B and C become schedules C and D, respectively.

Mr. WALKER: I move that the said Bill be further amended by renumbering Schedules B and C respectively as Schedules C and D and adding the following as Schedule B:

SCHEDULE B.

Initial Certification Period.

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agree- ment may be entered into or arbitral award rendered)	Column III (Day on which collective agree- ment or arbitral award ceases to be in effect)
Operational Category	Jan. 31, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969

Mr. KNOWLES: Does this schedule hinge on a date by which the bill has to get through parliament?

Dr. DAVIDSON: Well, it is certainly assumed that the bill will be through before the 31st of January, 1967, and we are...

Mr. WALKER: Do you want to leave yourself an escape hatch?

Dr. DAVIDSON: I do not want to leave you an escape hatch.

Mr. KNOWLES: You are a Presbyterian!

Mr. LEWIS: I differ from my colleague and I agree with Dr. Davidson. At least this will give the House of Commons a date by which it must produce this bill, which may be of some help.

Mr. KNOWLES: Or it may be the very thing that will prevent it from getting through.

Dr. DAVIDSON: That is up to the Members of Parliament; and of course it is open to the House and to the Senate, in the light of the calendar at the moment when the final decisions are being made to confirm or alter this bill. I would be horrified, if I may use that expression, to think that under any circumstances it would be necessary to alter the timetable that has been drawn up.

Some hon. MEMBERS: Hear, hear.

Mr. KNOWLES: I agree, Mr. Chairman, I just thought it should be noted, and I think that it should be clear, that, although this has been drafted by the staff, it is still this Committee that is putting it into the bill.

Mr. WALKER: For submission to Parliament. We are not ordering Parliament to do anything.

Amendment agreed to.

On clause 27—*Application by employee organization*

Mr. WALKER: I move that clause 27 of the said Bill be amended by striking out line 33 on page 14 and substituting the following: ...tive bargaining may, subject to *section 30*, apply...

Dr. DAVIDSON: The amendment to clause 27 is a purely technical amendment, Mr. Chairman, deleting the reference in clause 27 to *section 29* which is no longer applicable.

I should add, for Mr. McCleave's benefit, that while we met his point on the managerial or confidential capacity in the earlier definition, we just could not persuade the authorities responsible for drafting that there was anything wrong in the wording, "that it considers constitutes a unit" and, therefore, we have no suggestion to make.

Mr. MCCLEAVE: I am batting .500. I am happy.

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment to clause 27 carry?

Some Hon. MEMBERS: Agreed.

On clause 28—*Application by council of organizations.*

Mr. WALKER: I move that clause 28 of the said Bill be amended (a) by striking out lines 3 and 4 on page 15 thereof and substituting the following: tions, the council so formed may, subject to *section 30*, apply in the manner prescribed to the Board for certi-:

(b) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent; and

(c) by striking out lines 19 and 20 on page 15 and substituting the following:

Council
deemed to be
employee
organization.

29. A council of employee organizations shall, for all purposes of this Act except subsection (2) of section 28, be deemed

The JOINT CHAIRMAN (*Mr. Richard*): In considering this clause we will also have to consider an amendment which was proposed by Mr. Émard and seconded by Mr. Lachance.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, could I ask that discussion be delayed on this clause until this afternoon, when Mr. Lachance, who is chairman of the Labour and Employment Committee, can be in attendance?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, could we at least for the time being ask Mr. Davidson to present his own amendment and to explain it?

(*English*)

Mr. WALKER: Mr. Chairman, I do not wish to interfere with your conduct of the meeting, but I think there will be considerable discussion on this clause, and I do not know whether you want to start it now. I have quite a number of things I would like to say about this clause and Mr. Lachance, who is not here, will be wanting to speak, too. Quite frankly, I would like to consult with another person before I make certain statements, and I am wondering if we could not just stand the discussion on this particular clause at this moment?

Mr. LEWIS: What does Mr. Émard ask for?

The JOINT CHAIRMAN (*Mr. Richard*): The proposed amendment to clause 28 stands.

On clause 29—*No application before employees eligible for collective bargaining.*

Mr. WALKER: I move that the said Bill be further amended by striking out clause 29.

Dr. DAVIDSON: This is, again, a deletion of what now is an irrelevant reference to a section.

Mr. KNOWLES: As Mr. Bell would point out, you do not have to move an amendment. You just hold a vote on clause 29 and defeat it.

Amendment agreed to.

On clause 32—*Determination of unit appropriate for collective bargaining..*

Mr. WALKER: I move that clause 32 of the said Bill be amended (a) by striking out line 33 on page 16 and substituting the following: section 27, the Board shall, subject to subsection (4) of; and

(b) by striking out lines 3 to 6 on page 17 and substituting the following: employees in that unit relate.

The JOINT CHAIRMAN (*Mr. Richard*): Subparagraph (a)...

Dr. DAVIDSON: This is a technical change from subclause (3) to subclause (4), Mr. Chairman. In subparagraph (b) we propose to delete half way through

line 3 to the end, so that the words "employees in that unit relate," in line 3, will be the end of the reference.

Amendment agreed to.

On clause 34—*Certification of employee organization as bargaining unit*

Mr. WALKER: I move that clause 34 of the said Bill is amended by striking out paragraph (d) and substituting the following:

(d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to act for the members in the making of the application,

Mr. BELL (*Carleton*): Will you refresh my memory on the purpose of this amendment, Dr. Davidson?

Dr. DAVIDSON: It was considered that the wording of clause 34 (d), as it now stands in the printed text, was much too wide in having the board given the authority to satisfy itself that the employee organization making application has been duly authorized to act for the members of the organization in all of the relationships between the employer and such members. All that seems to be required at this point is to have the Board satisfy itself that the employee organization has, in fact been authorized to make the application it is making.

Mr. LEWIS: Is it clear that the authorization can come from an executive instead of from a membership? Or does this require a membership meeting?

Dr. DAVIDSON: I would say, first of all, that it seems clear that the board can be the judge of that; and it would seem to me to be the clear intent of this provision that the board should not need to require that authorization has been given by a full membership meeting.

Mr. LEWIS: Would you consider deleting the words "for the members" and just say "have been duly authorized to act in the making of the application?"

Dr. DAVIDSON: To act for the organization.

Mr. LEWIS: Yes. "Have been duly authorized to act for the organization in the making of the application."

Mr. BELL (*Carleton*): Why not just "duly authorized to make the application"?

Mr. LEWIS: "Duly authorized to make the application." I am a little concerned that with the inclusion of the words "for the members," somebody might interpret that to mean that every time they want to make application they have to have a membership meeting. They are all over the country, you know.

Dr. DAVIDSON: That is correct. It seems to me what is intended here is that the board should be satisfied that the persons representing an employee organization have been duly authorized in accordance with the constitutional provisions of the organization.

Mr. LEWIS: Well, that would follow. Why do you not take Mr. Bell's wording, which seems to be very, very good and simple—that they have been "duly authorized to make the application"?

Dr. DAVIDSON: Could I take that, subject to having it examined by the Department of Justice officers? I see no difficulty from our point of view.

Clause 34 stands.

On clause 35—*Powers of Board in relation to certification.*

Mr. WALKER: I move that subclause (1) of clause 35 of the said Bill be amended by striking out lines 9 to 17 on page 18 and substituting the following:

necessary; and

- (c) examine documents forming or relating to the constitution or articles of association of the employee organization seeking certification;

Dr. DAVIDSON: This amendment merely deletes subclause (d).

Amendment agreed to.

On clauses 36 and 37.

Dr. DAVIDSON: Could I, at the outset, say a word of explanation on this, Mr. Chairman?

This is, we appreciate, a difficult problem. What we have done, in effect, is to alter the clauses as they appear in the bill and to provide that every bargaining agent is required, following certification, to specify which of the two processes for dispute-settlement he opts for. No time limit is placed in this section on the opting, but later, in clause 49, where notice to bargain is dealt with, it is provided that the option must be exercised and the certification of the option recorded with the board before notice to bargain can begin.

Mr. LEWIS: Well, I guess we argue about the time when we get to clause 49.

The JOINT CHAIRMAN (Mr. Richard): Clause 36.

Mr. LEWIS: Just a moment, Mr. Chairman. You know, often there is a fight about these things. Are we doing clause 36 and clause 37 together?

The JOINT CHAIRMAN (Mr. Richard): We are dealing with clause 36 now.

On clause 36—*Specification of process for resolution of disputes as condition of certification.*

Mr. WALKER: I move that the said Bill be further amended by striking out clauses 36 and 37 and substituting the following:

Specification
of process
for resolution
of
disputes.

36. (1) Subject to subsection (2) of section 37, every bargaining agent for a bargaining unit shall, in such manner as may be prescribed, specify which of either of the processes described in paragraph (w) of section 2 shall be the process for resolution of any dispute to which it may be a party in respect of that bargaining unit.

Employer
to furnish
statement.

(2) For the purpose of facilitating the specification by a *bargaining agent* of the process for resolution of any dispute to which it may be a party in respect of a *bargaining unit*, the Board shall, upon request in writing to it by the *bargaining agent*, by notice require the employer to furnish to the Board and the *bargaining agent* a statement in writing of the employees or classes of employees in the bargaining unit whom the employer then considers to be designated

employees within the meaning of section 79, and the employer shall, within fourteen days after receipt of such notice, furnish such statement to the Board and the bargaining agent.

Amendment agreed to.

On clause 37—*Certification to record process for resolution of disputes*

Mr. WALKER: I move the amendment of clause 37 as follows:

37. (1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified.

Process for resolution of disputes to be recorded.

(2) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) of section 36 and recorded by the Board under subsection (1) of this section shall, notwithstanding that another employee organization may subsequently be certified as bargaining agent for the same bargaining unit, be the process applicable to that bargaining unit for the resolution of all disputes during the period of three years immediately following the day on which the first notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process, and thereafter until the process is altered in accordance with section 38.

Period during which process to apply.

Mr. LEWIS: As you know, Mr. Chairman, we object to the timing of the specification of the choice, or rather, of the route which a bargaining agent is to follow. But, in any case, why should the bargaining agent be stuck with it for three years? Why should it be for longer than the period of the collective agreement? If it is a three year collective agreement, all right. Why should they be stuck with this for more than one set of negotiations? I cannot follow the reason for that at all.

I can guess that a possible reason is the desire to have two experiences rather than merely one. You are assuming a two-year agreement because of your normal two-year revisions. Why? Why should we, as a parliament, enforce on these people that the choice which they make when they first start as a bargaining agent they must stand by for two sets of negotiations? If they have chosen the conciliation process, for example, and they find in their negotiations that, as a result of it, the strike weapon is not desirable, why should they not, in their next set of negotiations, be able to say, "our experience last time has taught us that it is better to have arbitration", or vice-versa? The first is the more likely one, I think, in practice.

Unless I am persuaded otherwise, we will draft an amendment with an hour later to make the period coincident with the term of the collective agreement.

Dr. DAVIDSON: Mr. Chairman, I appreciate Mr. Lewis' points. This is a matter of judgment.

I would point out that I know of no other legislation at all that gives to the employer organizations coming within the scope of that legislation the choice of two routes. This legislation is, therefore, unique in that respect.

Because the choice of the two routes is offered, it seems to those of us who have been concerned with the preparation of the legislation, rightly or wrongly, that it is desirable to ensure a reasonable element of stability in the processes which follow on from the option once it is exercised by the bargaining agents in each individual case. To ensure a measure of stability it has been the view of those who have worked on this legislation that there should be this provision that would discourage and, indeed, prevent an employee organization, which has made one choice, let us say, for arbitration, from reversing its option merely because its initial experience, or single experience, with an arbitration award has been unsatisfactory.

Likewise, it seems to us that this operates in reverse as well, and we would submit that it would not only be in the interest of the employer to have this degree of stability, but that it would equally be in the interests of the bargaining agents themselves, otherwise, on each occasion when you get an award, either as a result of arbitration, or as a result of a conciliation board that is accepted by a bargaining agent, or imposed on a bargaining agent after he has developed his case as fully as he can. Each bargaining agent will be open to the challenge on each occasion of a dissident group if you have not provided for some degree of stability and continuity. Now, you may say that that is the way it should be, but it does seem to me there should be an element of stability ensured in the bargaining relationship on both sides of the table, and this provision is designed to accomplish that.

Mr. LEWIS: Because of one little step towards stability—you do not have stability if you have it twice. Whether you change it after once or after twice is not surely the difference between stability and instability? You are taking away from the bargaining agent, it seems to me, the very important right that in each set of negotiations—and, Mr. Chairman, speaking of myself, I have been somewhat impressed by conversations about the porbable desirability—the choice be made prior to notice to bargain, so that everybody knows exactly what route they are going in the set of negotiations. I had, as you know, originally thought that the choice should be made later in the day, but there may be, and there probably is, a great deal of logic and justice in the notion that when the two parties sit down at the table they should know exactly what route they are going—that they both be in an equal position.

Now, why can that not just apply across the board? If that is the point you have reached it seems to me, as I have thought about it, a logical point, and that it should be across the board. You should not have a 3 year thing here. What the act should say is that, before notice to bargain is given—at any time—the bargaining agent makes its choice; and both sides know what they are faced with in that set of negotiations, and which route they are going to follow. In that case all this three-year period business can just be removed, because clause 49 will presumably say that before notice to bargain you do that.

I would like to move, with my colleague on anyone else, an amendment to that effect, but I would like to urge a regime which says that, before notice to bargain is given, the bargaining agent must make its choice.

Mr. WALKER: Mr. Chairman, can we stand a clause for the—

Mr. KNOWLES: Mr. Chairman, before you stand the clause may I ask Dr. Davidson to consider this point. It seems to me that there is an inconsistency between a combination of clauses 49 and 36 and clause 37, because you knock that out in clause 37.

I have been reading your new clause 49 which, in effect, says, that notice to bargain can be given, providing, amongst other things, that the process for the resolution of a dispute has been specified as provided in subclause (1) of clause 36. But then, by clause 37, you say to the bargaining agent that he cannot operate as under 36, or as under 49, because he has already made a decision that bans him for three years.

I am supporting Mr. Lewis' position, that if, under clause 49, you say that notice to bargain can be given provided you have given an indication of the route that you are going to follow, why not let that be it in all cases?

Dr. DAVIDSON: I am not persuaded, Mr. Knowles, that there is a technical point at issue here in the drafting, because a specification provided for in subclause (1) of clause 36, which is referred to in clause 49, continues to be a specification until such time as it is replaced by a new, effective specification.

Mr. KNOWLES: But clause 37 gives you no opportunity to replace it in the three-year period.

Dr. DAVIDSON: And therefore it remains a specification, and the wording of clause 49, it seems to me, is technically sound on that score.

May I say, Mr. Chairman, that I have been greatly heartened by the position that Mr. Lewis has taken on the question of the point at which the exercise of the option might be found to be acceptable to him as a member of the Committee. This to us seems to be a pretty crucial point. I am also aware of the arguments of both sides on this three-year-proposition, and I would like to suggest that the Committee give us a little further time to think over this three-year proposal. We can come back to this clause as soon as we have taken a further look at it.

The JOINT CHAIRMAN (*Mr. Richard*): Would you like to speak now, Mr. Émard?

(*Translation*)

Mr. ÉMARD: I only have one word to add and it is my own personal opinion. Personally, I share the opinion of Mr. Lewis. I do not see any sufficient reasons to extend to two terms, the action which should be taken on the arbitration or the strike. Either we give the right to strike or we refuse it. We have decided to give it and therefore, we should not limit it too strictly. One thing that should be considered too, is the union point of view. A negotiating team does not have the right to commit the next bargaining team, because in trade unions you have a Committee which is sitting for one set of negotiations, but the next time it is not the same Committee at all, very often. I, therefore, think that this is a matter of policy for the trade union. It is very important. If they do not have the opportunity of deciding themselves, before undertaking negotiations, I think that we can be in great trouble; and there will be very serious trouble in the trade union, at the very start, which will later on have a bearing on the proper conduct of bargaining.

(English)

The JOINT CHAIRMAN (Mr. Richard): We will stand the amendment to clause 37.

On clause 38—*Application for alteration of process.*

Mr. WALKER: I move that the said Bill be further amended by striking out subclauses (2), (3), (4) and (5) of clause 38 and substituting the following:

Alteration
to be
recorded.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 as any notice to bargain collectively is given in respect of that a dispute.

Effective
date and
duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective at such time next after the period of three years referred to in subsection (2) of section 37 as any notice to bargain collectively is given in respect of that bargaining unit, and remains in effect for the same period as is provided in subsection (2) of section 37 in relation to the initial specification of the process for resolution of a dispute.

Dr. DAVIDSON: May we let that stand, too, Mr. Chairman?

The JOINT CHAIRMAN (Mr. Richard): The suggested amendment to Clause 38 stands.

On clause 39—*Where participation by employer in formation of employee organization.*

Mr. WALKER: I move that the said Bill be further amended by striking out subclause (3) of clause 39 and substituting the following:

Where
discrimina-
tion by
reason of
race, etc.

(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee by reason of race, creed, colour, sex, nationality, ancestry or place of origin.

Dr. DAVIDSON: Here we have made a concession to Mr. Knowles, which I hope will please him.

Mr. BELL (Carleton): Except that the word is in the wrong position, is it not? Should not "sex" always come first, Mr. Chairman? We did put it first, Mr. Chairman, in the Public Service Employment Act.

The JOINT CHAIRMAN (Mr. Richard): The clerk has just told me that the proper ending was "by reason of sex, race, creed, colour...", and someone has inserted it in the wrong place.

Mr. KNOWLES: Some stenographer did not like it in that place.

Mr. BELL (Carleton): Let us keep the two acts consistent.

Dr. DAVIDSON: Does "sex" come first, Mr. Bell?

Mr. BELL (Carleton): Yes.

Mr. KNOWLES: It did in the other—

Mr. BELL (Carleton): It did in the Public Service Employment Act.

Dr. DAVIDSON: Well in the opinion of this committee does "sex" come first?

Mr. BELL (*Carleton*): Oh, decidedly.

Dr. DAVIDSON: In the order of priority.

Mr. LEWIS: Without sex we do not have a race.

Dr. DAVIDSON: Could I draw the Committee's attention to the fact that we have inserted one three-letter word, but we have also deleted one three-letter word. We had to take out the word "his".

Mr. KNOWLES: I do not have my copy of the Public Service Employment Act on hand here. I wonder if we have "ancestry" in the other one?

Mr. WALKER: I have it sir. What section was it?

An hon. MEMBER: Yes, it was definitely in the other one.

Mr. KNOWLES: Did we?

Mr. WALKER: Well, in subclause (3) of clause 39.

Mr. BELL (*Carleton*): No; I do not think we did.

Mr. KNOWLES: I mean in the Public Service Employment Act?

Mr. FAIRWEATHER: We should have two years to exercise the options on this matter.

Mr. LEWIS: That is only because you are getting old!

The JOINT CHAIRMAN (*Mr. Richard*): Is the amendment to clause 39 agreed to?

Mr. KNOWLES: Just a minute. Did we have that other question answered?

Dr. DAVIDSON: What was the clause?

Mr. BELL: It was section 12 subsection (2) of the Public Service Employment Act.

Mr. LEWIS: There is no "ancestry".

Mr. BELL (*Carleton*): No. It reads now: "by reason of sex, race, national origin, colour or religion".

Mr. ÉMARD: Well, that certainly was in the previous clause 39...

Mr. WALKER: Yes, in this bill; but not in the Public Service Employment Act.

Mr. BELL (*Carleton*): I think the two acts should be consistent.

Mr. KNOWLES: Yes; but call it "religion" in one place and "creed" in the other.

Mr. WALKER: And "place of origin" in this one?

Mr. KNOWLES: That is no criticism of this one. Perhaps it is the other one we have to look at again.

The JOINT CHAIRMAN (*Mr. Richard*): Is the amendment carried?

Dr. DAVIDSON: Before carrying, Mr. Chairman, I certainly would agree that there is some question of inconsistency here, but is it the view of the Committee that the policy to be imposed by the board on a certified bargaining agent should

be identical with the policy of the Public Service Employment Commission in regard to these matters. If it is, then the case for complete consistency is clear. But I think that the Committee should ask itself this question first: Are the issues precisely the same in both situations?

Mr. BELL (*Carleton*): Is there any reason why they should not be?

Dr. DAVIDSON: Well, I do not know, but—

Mr. BELL (*Carleton*): I would say at once that I think they should be exactly consistent.

Dr. DAVIDSON: But you are saying here that you will not certify any bargaining unit unless its policies with respect to its own membership are identical with those that in public employment policies are being prescribed for the government of Canada.

Mr. BELL (*Carleton*): I would say, most emphatically, yes.

Mr. LEWIS: Right.

Mr. KNOWLES: In that case, we must look at the clause in the other bill again before we finally pass—

The JOINT CHAIRMAN (*Mr. Richard*): That does not affect this clause.

Dr. DAVIDSON: I would think, then, Mr. Chairman that it is a matter for the Committee to determine, after we have reported on it, which of these two wordings they prefer.

The JOINT CHAIRMAN (*Mr. Richard*): All right; the suggested amendment to Clause 39 stands.

On clause 43—*Certification obtained by fraud.*

Mr. WALKER: I move that subclause (1) of clause 43 of the said Bill be amended by striking out line 3 on page 23 and substituting the following:

Certification
obtained by
fraud.

43. (1) Where the Board is *satisfied*

Dr. DAVIDSON: This was a small change that was proposed earlier as we proceeded with the first reading, Mr. Chairman, and which we have incorporated now in the bill. The board has to be satisfied that there was fraud, rather than keep the wording "Where...it appears to the Board".

Amendment agreed to.

On clause 49—*Notice to bargain collectively.*

Mr. WALKER: I move that subclause (1) of clause 49 of the said Bill be amended by striking out lines 26 to 28 on page 24 and substituting the following:

Notice to
bargain col-
lectively.

49. (1) Where the Board has certified an employee organization as bargaining agent for a bargaining unit and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36,

Dr. DAVIDSON: Incidentally, Mr. Chairman, clause 49 was not stood when the committee previously dealt with it, and I would ask their permission...

The JOINT CHAIRMAN: By leave of the Committee, because we had passed clause 49. Is that agreed?

Some hon. MEMBERS: Agreed.

Dr. DAVIDSON: This is the clause, Mr. Chairman, in which it is provided that the process for resolution of a dispute must be indicated by the bargaining unit before notice to bargain can be given.

Mr. LEWIS: The two are connected, but I would like to be sure about the three-year thing before. . . . Well, what is involved is whether this applies only to the first time a bargaining unit is certified, or whether it is intended to apply to all negotiations of that bargaining unit with the employer.

Dr. DAVIDSON: Mr. Chairman, it seems to me that, quite apart from whether the employee organization has the option on each occasion, or on each second occasion, this clearly means that on each occasion when notice to bargain is being given, under circumstances which offer the option to the bargaining unit to alter its choice, it must on that occasion specify which process it is going to follow before notice to bargain can commence.

Mr. LEWIS: I really do not want to be difficult, but I have this problem, Mr. Chairman, and I, therefore, ask the Committee if it would be good enough to stand this.

If Dr. Davidson and his advisers insist on—and the Committee supports—the three-year situation, then, I am not personally prepared to agree that they have to make the choice without any experience in negotiation at all. What Clause 49 means, if I read it correctly—and I think I do—is that before they start negotiating at all—because the present regime means that you get certain units determined and certain dates determined and so on, according to the schedules which we have passed—before they have had any experience in negotiation, the union has got to make its choice. I was impressed by the argument that it is good for both sides to know where they are going before they start negotiating, and, therefore, I would be prepared now—speaking for myself—to accept this proposition, if they can do that in each set of negotiations; so that in the second set of negotiations they will have had the experience of the first set of negotiations. But if you ask me to support this so that it binds them for two sets of negotiations without any experience, I am not prepared to do it.

Mr. BELL (*Carleton*): Well, I think, Mr. Chairman that this section should stand. I am impressed by what Mr. Lewis says. I think the combined effect of the three years and this section might easily lead to unholy confusion.

The JOINT CHAIRMAN (*Mr. Richard*): The suggested amendment to Clause 49 stands.

On clause 51—*Continuation in force of terms and conditions of employment.*

Mr. WALKER: I move that clause 51 of the said Bill be amended (a) by striking out lines 25 to 27 on page 25 and substituting the following:

referral thereof to arbitration, and

(b) by striking out line 41 on page 25 and substituting the following:

Act and a collective agreement has been entered into or an arbitral award has been

An hon. MEMBER: This is another clause that was carried.

Mr. BELL (*Carleton*): What is the point of this amendment?

Dr. DAVIDSON: Mr. Love could deal with this one.

Mr. LEWIS: Was this a negotiating relationship—

Mr. LOVE: This, Mr. Chairman, is a change consequent upon the earlier decision of the committee to get rid of the references to the termination of the negotiating relationship. It is simply a technical change that is consistent with the position the committee has taken.

Mr. LEWIS: Do you feel it follows on the deletion of the next clause, 52?

Mr. LOVE: That is right, sir.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 52 is struck out.

Mr. WALKER: I so move, that the said Bill be further amended (a) by striking out clause 52 thereof; and

(b) by renumbering clauses 53 and 54 as clauses 52 and 53, respectively.

Some hon. MEMBERS: Hear, hear.

The JOINT CHAIRMAN (*Mr. Richard*): And clauses 53 and 54 will be re-numbered as clauses 52 and 53.

Mr. OLLIVIER: You deleted another one before. Would not that—?

Mr. LOVE: It will be picked up.

Mr. LEWIS: I think there will be some renumbering required.

Mr. BELL (*Carleton*): We pick it up in the next one.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 55.

On clause 55—*Authority of Minister to enter into collective agreement.*

Mr. WALKER: I so move, that clause 55 of the said Bill be amended (a) by striking out lines 37 to 39 on page 26 and substituting the following:

Authority of Treasury Board to enter into collective agreement.	54. The Treasury Board may, <i>in such manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the Financial Administration Act</i> , enter into a; and (b) by renumbering subclause (2) thereof as clause 55.
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Mr. WALKER: Excuse me, Mr. Chairman; did we pass clause 53 previously? I show it as standing.

The JOINT CHAIRMAN (*Mr. Richard*): Yes; it was carried.

Mr. BELL (*Carleton*): I do not have with me the Financial Administration Act. What is the effect of section (3)...

Dr. DAVIDSON: Section (3) of the Financial Administration Act is the new section (3) that has been approved by parliament as part of the Government Organization Act. In effect, it provides that the Treasury Board may develop its own rules and procedures. "Subject to this Act and any directions of the governor in council the Treasury Board may determine its own rules and procedures." That is section (3) subsection (4).

Have you got it, Mr. Bell?

Mr. BELL (*Carleton*): Well it is not in Bill No. 182. There is no amendment to—

Dr. DAVIDSON: No. We are talking about the Government Organization Act.

Mr. BELL (*Carleton*): Oh, the Government Organization Act, yes.

Dr. DAVIDSON: Yes; that was approved on the 16th of June, 1966.

The Government Organization Act, you may recall, amends the Financial Administration Act by re-enacting sections (3) and (4) of the Financial Administration Act. In the re-enactment of section (3) it is provided that there shall be a committee of the Queen's Privy Council of Canada, called the Treasury Board, that the committee shall consist of such and such ministers and members of the Queen's Privy Council, that the governor in council may nominate additional members to serve as alternates, and that, subject to this act—that is, the Financial Administration Act—and any directions of the Governor in Council, the Treasury Board may determine its own rules and procedures.

In accordance with this, and in accordance with the further provision which says that:

The President of the Treasury Board shall hold office during pleasure and shall preside over meetings of the Board and shall in the intervals between meetings of the Board exercise or perform such of the powers, duties or functions of the Board as the Board may, with the approval of the Governor in Council, determine

it is contemplated that the Treasury Board, in accordance with the authorities already given to it by these provisions, shall determine, in its own rules and procedures, the mechanism by which it will itself, or through the President of the Treasury Board, authorize the entry into effect of these agreements.

Therefore, if the present law, as approved by Parliament, authorizes the Treasury Board to give a signing authority to the President of the Treasury Board, or to an officer of the Board, it may, by providing for this in its rules and procedures, and by obtaining the approval of the Governor in Council to make that provision in its rules, cover this situation.

What we wish to avoid, first of all, is any derogation from the authority of the Board. At the same time, we do not wish to be in a position where, in a negotiating situation which may be taking place in Halifax, or in Vancouver or in Montreal or in any place as well as Ottawa, when we have reached a point of agreement with the bargaining agent that we are dealing with, we will have to say "We are so sorry, but we will now have to take this back to get the signature of the President of the Treasury Board, or of the Treasury Board, before we can say that we will agree to the terms that we have negotiated".

We contemplate a formal procedure which is laid down in the Treasury Board's rules of procedure, which is consistent with the other procedures by which the Treasury Board delegates, or authorizes its authority to be used by a minister or an officer; and we would contemplate also a formal instrument of agreement being issued, which would make it clear that the person who is signing the agreement has been authorized by a formal instrument to do so on behalf of the Treasury Board.

Mr. BELL (*Carleton*): Mr. Chairman, the Heeney Report and the bill as originally drafted made all agreements subject to the approval of the Governor in Council. That approval is now no longer necessary. I think that there is some incongruity in what we decided earlier this morning, that in order to fix the remuneration of a conciliator—a small matter such as that—the Governor in Council must be consulted. But in the main agreement the Governor in Council is totally abandoned.

Mr. KNOWLES: Conciliators do not enjoy collective bargaining!

Amendment agreed to.

On clause 56—*Time within which agreement to be implemented.*

Mr. WALKER: I move that subclause (2) of clause 56 of the said Bill be amended by striking out line 38 on page 27 and substituting the following: Schedule C.

Amendment agreed to.

On clause 57—*When agreement effective.*

Mr. WALKER: I move that clause 57 of the said Bill be amended (a) by striking out line 4 on page 28 and substituting the following: the collective agreement shall, subject to subsection (5) of section 26, be;

(b) by striking out subclauses (3) and (4) thereof; and

(c) by striking out line 24 on page 28 and substituting the following:

Saving
provision
where
agreement
provides for
amendment.

(3) Nothing in subsection (2) shall be

Mr. LEWIS: What is subsection (5) of section 26, to remind us?

Dr. DAVIDSON: That has to do with the times specified for the commencement of collective bargaining during the initial certification period.

Could I, Mr. Chairman, pass over (a) competely and draw the committee's attention to the fact that (b) is to be deleted from the amendment. This has been taken care of by clause 26. I am sorry. May I correct myself? Subparagraph (b) stands, but the reason for the deletions of subclauses (3) and (4) is that these matters are picked up and taken care of in clause 26.

Amendment agreed to.

On clause 58—*Binding effect of agreement.*

Mr. WALKER: I so move that clause 58 of the said Bill be amended by striking out lines 31 and 32 on page 28 and substituting the following: purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the em—

Mr. BELL (*Carleton*): What was the point of this amendment? Would you refresh my memory.

Mr. LEWIS: This is the constituent unions of a council. Why they do not say that, I do not know.

Mr. BELL (*Carleton*): I am concerned whether it may say something more than Mr. Lewis has just mentioned.

Mr. LEWIS: I think that is what is intended, and I think the wording is awkward, with great respect.

Dr. DAVIDSON:

A collective agreement is, subject to and for the purposes of this Act, binding on the employer and the bargaining agent that is a party thereto...

Mr. LEWIS: You have picked up the language which sets up the council, and in the case of a council—

Mr. WALKER: "Subject to and for the purposes of this Act, binding on the employer". You take out lines 31 and 32.

Mr. LEWIS: Which is the clause which deals with the council?

Dr. DAVIDSON: I must say that I am not familiar with the reasons why it was considered that a reference to the employee organizations was not considered to be in order here.

Mr. BELL (*Carleton*): I am just concerned that this may say more than is intended.

Mr. LEWIS: You have departments, divisions and so on. Why could you not just simply say "and in the case where a council of employee organizations is the bargaining agent".

Dr. DAVIDSON: Could I ask the Committee's view of a question? I am not certain that this entered into this consideration at all, but where a bargaining agent is bound, are the local units of the bargaining agents bound by that fact?

Mr. BELL (*Carleton*): I would have thought so.

Dr. DAVIDSON: I just do not know, and I am trying to examine myself why these words were chosen. Could we stand this, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): The suggested amendment to Clause 58 stands.

On clause 60—*Public Service Arbitration Tribunal established.*

Mr. BELL (*Carleton*): I think the question here was this matter of the "unanimous" recommendation of the Board in subclause (2).

Mr. WALKER: We did not know—

Mr. BELL (*Carleton*): And, in relation to quorum, what does "unanimous" mean. That was our query.

Mr. RODDICK: Mr. Chairman, in my discussion with the draftsman he indicated that in his view there was no doubt that it applied to a meeting of the board upon which it was qualified to make a decision; and that no other interpretation could be put upon the word "unanimous". It did not mean all the members who are appointed to the board.

Amendment to subclause (2) of clause 60 agreed to.

On clause 63—*Request for Arbitration.*

Mr. WALKER: I so move that subclause (1) of clause 63 of the said Bill be amended (a) by striking out line 39 on page 30 and substituting the following: writing to the *Secretary of the Board* given; and

(b) by striking out paragraph (a) thereof and substituting the following:

- (a) at any time, where *no collective* agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or

Dr. DAVIDSON: Could I ask Mr. Love to take over from here?

Mr. LOVE: Mr. Chairman, clause (a) represents one of the functions that was previously allocated to the chairman of the board. This is a relatively minor function—it is really a post office function—which, on review, at the request of the Committee, we felt could be transferred from the chairman of the board to the secretary of the board.

There will be a number of other suggestions of a similar kind incorporated in later proposed amendments. This clause contemplates a situation in which either party is, by notice in writing, requesting arbitration. It is proposed that the notice should now be directed to the secretary rather than the Chairman.

(Translation)

The JOINT CHAIRMAN (Mr. Richard): I am not very qualified, but somebody made a suggestion to me in regard to 63—1 in the French text, where we used the expression “aucune”. We should perhaps be sure as to the legal terminology because it does not seem to resemble “any” in English.

(English)

Dr. DAVIDSON: This is being checked, Mr. Chairman. We will have to report back on that.

The JOINT CHAIRMAN (Mr. Richard): On the French text we will have a further report.

Mr. KNOWLES: What about (b) of the proposed amendment to clause 63.

Mr. LEWIS: That follows the deletion of the words “negotiation...”

Mr. KNOWLES: Right.

Amendment agreed to.

On clause 64—*Request for arbitration by other party.*

Mr. WALKER: I so move that clause 64 of the said Bill be amended by striking out subclause (1) and substituting the following:

Request for
arbitration
by other
party.

64. (1) Where notice under section 63 is received by the Secretary of the Board from any party requesting arbitration, the Secretary shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Secretary, by notice in writing of any matter, additional to the matters specified in the notice under section 63, that was a subject of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect

of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration.

Mr. LOVE: Mr. Chairman, this is really a companion piece to the one we have just discussed: it would place on the secretary the responsibility for receiving notice from the other party in a situation where the first party had requested arbitration. It also gets rid of the phrase "termination of the negotiating relationship".

Amendment agreed to.

Mr. WALKER: What about clause 65? We carried it, but they were going to do some renumbering.

Mr. LOVE: Mr. Chairman, the draftsman has found it unnecessary to add an additional clause after 65. This is picked up later, I believe. It is picked up in clause 67.

The JOINT CHAIRMAN (*Mr. Richard*): On clause 67—*Matters constituting terms of reference*

Mr. WALKER: I move that clause 67 of the said Bill be amended by adding thereto the following subclause:

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof.

Mr. WALKER: What about the renumbering? I have a note here that we had to do some renumbering in clause 65. We were making reference to clauses 63 and 64. I do not recall the circumstances—

Mr. LEWIS: I think we stood it because we were looking again at clauses 63 and 64.

The JOINT CHAIRMAN (*Mr. Richard*): It was carried. We are now dealing with clause 67.

Mr. BELL (*Carleton*): Would you refresh my memory, Mr. Love on what the problem was here?

Mr. LOVE: Mr. Chairman, the way the bill was originally drafted it would be impossible for the parties to enter into a collective agreement, or a supplementary collective agreement, after a request for arbitration had been made.

This clause is designed to make it clear that the parties are free to enter into a collective agreement after the application has been made, but before the arbitral award is rendered.

Mr. LEWIS: This is settlement in judge's chambers.

Amendment agreed to.

On clause 68—*Factors to be taken into account by Arbitration Tribunal.*

Mr. WALKER: I move that clause 68 of the said Bill be amended by striking out line 20 on page 32 and substituting the following: the Arbitration Tribunal shall consider

Amendment agreed to.

On Clause 70—*Subject matter of arbitral award*

Mr. WALKER: I move that clause 70 of the said Bill be amended (a) by striking out lines 24 to 26 on page 33 and substituting the following: employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof: and (b) by striking out subclause (4) thereof and substituting the following:

Award to be limited to bargaining unit. (4) An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

Mr. LEWIS: Here I go again, Mr. Chairman. I am still worried about subclause (3). I had a thought on this, too, which I want to come to in a moment. May I know why "lay-off" is in there as one of the matters excluded from bargaining? What do you mean by "lay-off as distinct from "release of employees"?"

Mr. LOVE: Mr. Chairman, "lay-off" means what it does in the normal industrial context, but in the public service the conditions governing lay-off are dealt with under the Public Service Employment Act; and the order of lay-off and recall is governed, as I understand it, by the merit system.

In the case of release, we are talking here about a release on grounds of incompetence or incapacity that is subject to the authority of the public service commission rather than a release resulting from disciplinary action which, in this package of legislation, is referred to as a discharge.

Mr. LEWIS: Why should not the lay-off procedures be subject to bargaining as distinct from promotion, demotion and transfer? If you have a base that is closed down somewhere, or something is closed down, and you have people laid off, why can not the order which people are to be laid off and recalled, and so on be subject to normal bargaining?

Mr. LOVE: Mr. Chairman, I think the answer is a fairly simple one. The conditions governing lay-off are placed, and have traditionally been placed, within the authority of the public service commission; in this designation the matter is dealt with in clause 29 of Bill No. C-181. I think that is the answer, that this has been regarded, and is in Bill No. C-181 regarded, as part of the merit system.

Mr. LEWIS: Mr. Chairman, I am still very unhappy about this large area of normal collective bargaining being taken out, but again this is the value of Committee work as distinct from speeches in the other place and I mean my place, Senator Fergusson.

I am impressed by the desire to retain the merit system and to have it retained in one set of hands, namely, the Public Service Commission.

Therefore, forgive me if I appear to be out of order.

I would like to ask you, Mr. Chairman, whether—because I was away on a number of occasions—we have passed clause 12 of Bill No. C-181? Briefly, what I have in mind, Mr. Chairman if the Committee will indulge me for a moment is what I think is an appropriate compromise on this issue, and that is to include in the present Bill No. C-181 a variant of section 7 of the old Civil Service Act. If the Committee could agree to reopen clause 12 of Bill No. C-181—and I raise it here because it deals with this matter of promotion and demotion—I would at that time suggest and I want to test this with Dr. Davidson and Mr. Love and the others a new subsection (3) to clause 12 of Bill No. C-181, which is an adaptation of section 7 of the old Civil Service Act which would read something like this: “The Commission shall from time to time consult with representatives of bargaining agents certified under the Public Service Staff Relations Act with respect to selection standards and with respect to standards governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or whenever, in the opinion of the Commission, such consultation is necessary or desirable.”

What I have in mind, Mr. Chairman, is that if we take this area out of collective bargaining let us put something in the Public Service Employment Act which makes it obligatory on the Public Service Commission, at the request of the bargaining agent, to consult with it on the standards which it sets up and employs. Now, I mean only consult. I am not saying that they can negotiate. As I say, this is merely an adaptation of section 7 of the old Civil Service Act, so that it is not introducing anything revolutionary; but I think that at least the bargaining agents would be given statutory right to talk with the Public Service Commission about the standards affecting the merit system at any of its steps.

While I would still feel that I could make a long speech about the desirability of leaving these matters in bargaining subject in some way to the Public Service Commission, I think, if the other can be done, perhaps we can let two or three years of experience tell us whether it works, or what should be done. What does Dr. Davidson think about that?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, I do not know whether you were here when we discussed clause 12 of Bill No. C-181, but those very points were brought up at that time. It is not a new suggestion.

Mr. WALKER: Mr. Chairman, Mr. Lewis is asking for a printed affirmation of an informal procedure that goes on now, if I remember Mr. Cloutier's testimony before the Committee.

Mr. LEWIS: What I am saying is that this exclusion in subclause (3) of clause 70 is unpalatable to me, and I am sure it is unpalatable to the organizations, because all of them, if my memory serves me right, objected to it. I do not mind saying to the Committee that I have consulted some of them about whether the suggestion that I have just made to the Committee would meet some of their objections and they have informed me that it would and that it would be a step in the right direction.

Therefore, if Dr. Davidson sees no objection to that kind of approach, then, at the appropriate time, I, or somebody, could move that amendment to the other Bill.

Mr. BELL (*Carleton*): Perhaps it would be a good idea to have Dr. Davidson meditate on this over the lunch hour.

The JOINT CHAIRMAN (*Mr. Richard*): Would it not be better for Dr. Davidson to refrain from expressing his own opinion on this point until after he has talked to Mr. Cloutier and the Civil Service Commission?

Dr. DAVIDSON: I will be glad to have a word with them and report—what I think is more important in the circumstances—their reaction to this suggestion.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, as a point of personal information, I would like to know if, in case of the lay-off, according to the merit system, you would be able to supply to the trade union or employee organization a recall list based on the qualifications of the employees so as to eliminate any discrimination?

(*English*)

Dr. DAVIDSON: Mr. Chairman, this would be governed entirely by the procedures established by the Public Service Commission under the Public Service Employment Act.

(*Translation*)

Mr. ÉMARD: Yes, I understand that quite well. But what I would like to know is, according to the merit system, would it be possible to do this in a plant or an industry? In the case of a lay-off, there is always a recall list which is established according to seniority. If the employee organizations were to ask for this during the course of negotiation, would it be possible, under the present merit system to establish a list of this type, based on qualifications of the employees in one particular position, for instance. I am thinking of sweepers. If you had twenty-five sweepers who were laid off, could you establish a recall list to indicate which ones would be recalled, based on their qualifications, because the merit system is based on the qualifications of employees?

(*English*)

Dr. DAVIDSON: Mr. Chairman, I am sorry; I will have to find out from the Civil Service Commission what their policy is.

(*Translation*)

Mr. LEWIS: There is a list of this type at all times.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment to clause 70 carry?

Amendment agreed to.

On clause 71—*Award to be signed by chairman*

Mr. WALKER: I move that clause 71 of the said Bill be amended by striking out subclause (2) and substituting the following:

Decision.

(2) A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof, the decision of the chairman of the Arbitration Tribunal, shall be the arbitral award in respect of the matters in dispute.

Mr. LOVE: Mr. Chairman, this represents an attempt to deal with the concern of the Committee about the manner in which the arbitration tribunal would arrive at a decision. The intent of the proposed amendment is to ensure that majority rule would apply; except, of course, where there was no majority, in which case the decision of the chairman would be the decision of the tribunal.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We stand adjourned until—

Mr. KNOWLES: Before we adjourn had we not better face the difficulties that confront us about meeting later today? In other words, I am suggesting that we go on a bit longer, because both this afternoon and this evening some amendments are going to be moved and there are going to be votes in the House without bells ringing. I do not mind if the Liberals are away, but they probably want to be there.

The JOINT CHAIRMAN (*Mr. Richard*): You are going to find some members moving out of this meeting pretty soon. As far as I am concerned, I am willing to sit longer.

Mr. LEWIS: Whether or not we sit longer it will not be possible, surely, to have a meeting this afternoon.

The JOINT CHAIRMAN (*Mr. Richard*): Or in the evening?

Mr. KNOWLES: It may well be. We are on the medicare bill. We are in committee of the whole. There are amendments being moved, and votes are being taken without the bells ringing.

Mr. LANGLOIS: Let us try to finish it, Mr. Chairman.

Mr. KNOWLES: Can we give it another 15 minutes?

The JOINT CHAIRMAN (*Mr. Richard*): Yes; I am willing.

On clause 72—*Binding effect of arbitral award*

Mr. WALKER: I move that clause 72 of the said Bill be amended (a) by striking out lines 16 and 17 on page 34 and substituting the following: purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the employees; and (b) by striking out lines 27 and 28 on page 34 and substituting the following:

on the parties but not before,

(a) in the case of an arbitral award rendered during the initial certification period, a day four months before the day specified in Column I of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and

(b) in any other case, the day on which notice to bargain collectively was given by either party.

Mr. LOVE: Mr. Chairman, subparagraph (a) is comparable to the proposed amendment to clause 58, which has been stood over again for further examination. I assume this one would also stand.

Subparagraph (a) of clause 72 stands.

Mr. LOVE: In item (b), Mr. Chairman, the wording of the original text of the bill made it clear that an arbitral award could not call for retroactivity beyond the date on which notice to bargain was given.

On review of this, we felt that it should be possible, during the initial certification period, for an award to have retroactivity four months before the date specified in column 1 of Schedule B on which notice to bargain may be given. The purpose of the change would be to protect the capacity of the parties, and particularly the capacity of the government, to carry out undertakings already given with respect to protection of the normal pay review date as a date on which pay increases may be made effective.

Mr. LEWIS: And the four months applies in each one of those?

Mr. LOVE: That is right.

Mr. LEWIS: That covers the gap between the pay review date and the date of the collective agreement.

Mr. LOVE: That is right, Mr. Chairman. In the case of the Operational Category, for example, this would make it possible for an award to call for retroactive payment to October 1, 1966.

Amendment to subparagraph (b) of clause 72 agreed to.

On clause 73—*Terms of arbitral award.*

Mr. WALKER: I move that clause 73 of the said Bill be amended by striking out subclauses (2) and (3) and substituting the following:

Limitation
on term
of award.

(2) *Subject to subsection (5) of section 26, no arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (a) or (b) of subsection (1), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties.*

Mr. LOVE: Mr. Chairman, this is a proposed amendment on which there was a good deal of consensus in the Committee the last time round.

In effect it says that, where the parties have not specified a term of an agreement, and where the arbitration tribunal has no means of guidance in the form of a collective agreement to which the arbitral award would relate, the term shall be for a period no less than one year or more than two years. The original bill contained the standard clause referring to a period not less than one year, which is the normal provision in collective bargaining legislation, but I believe that one or more of the employee organizations appearing before the Committee said that in those circumstances there should be a restriction the other way as well.

Amendment agreed to.

On clause 75—*Reference back to Arbitration Tribunal*

Mr. WALKER: I move that the said Bill be further amended by striking out clause 75 and substituting the following:

Reference
back to
Arbitration
Tribunal.

75. Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the

matter back to the Arbitration Tribunal, and the Arbitration Tribunal shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 65.

Mr. LOVE: This is a provision for reference back to the arbitration tribunal in circumstances where it appears to one of the parties that the tribunal has failed to deal with one of the matters referred to it.

Mr. LEWIS: It is up to the parties rather than to the chairman?

Mr. LOVE: That is right.

Amendment agreed to.

On clause 78—*Establishment of conciliation board where requested by either party.*

Mr. WALKER: I move that clause 78 of the said Bill be amended (a) by striking out line 22 on page 36 and substituting the following: under section 52 has made a final report to the ; and

(b) by striking out line 40 on page 36 and substituting the following: parties are unlikely to reach agreement, but before establishing such a board the Chairman shall notify the parties of his intention to do so.

Amendment agreed to.

On clause 79—*Designated employees.*

Mr. WALKER: I move that subclause (5) of clause 79 of the said Bill be amended by striking out line 41 on page 37 and substituting the following: so informed by the Board.

Amendment agreed to.

On clause 83—*Terms of reference of conciliation board.*

Mr. WALKER: I move that clause 83 of the said Bill be amended by striking out line 3 on page 39 and substituting the following: tion a statement setting forth the

Mr. LOVE: Mr. Chairman, this has the effect of taking out the words "prepared by him" when, in effect, the terms of reference of a conciliation board are being referred to the board.

It was proposed under the original wording that the terms of reference should be prepared by the chairman. This takes out the words "prepared by him," and makes the provision more consistent with provisions of this kind in labour law.

Amendment agreed to.

On clause 94—*Notice to specify whether named adjudicator, etc.*

Mr. WALKER: I move that clause 94 of the said Bill be amended (a) by striking out line 2 on page 43 and substituting the following: adjudication, the aggrieved employee shall, in the manner pre- ;

(b) by striking out line 10 on page 43 and substituting the following: adjudication and the aggrieved employee has notified the chief ; and

(c) by striking out line 19 on page 43 and substituting the following: tion has been requested by the aggrieved employee

Mr. LOVE: Mr. Chairman, the amendment to clause 94 is simply a matter of substituting the word "employee" where the word "person" had inadvertently appeared in the original bill.

Members will recall that the word "employee" is defined, for purposes of the grievance sections, as including a person who, but for the fact that he has been excluded as a person employed in a managerial capacity, would be an employee. These are really technical amendments.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, what happened to clause 92? I think it was just about the wording "unanimous recommendation of the Board". Now that that has been settled I suppose we should pass clause 92.

Dr. DAVIDSON: This is the same issue as on the previous—

The JOINT CHAIRMAN (*Mr. Richard*): Yes; the word "unanimous."
Does clause 92 carry?

Some hon. MEMBERS: Agreed.

Mr. WALKER: Excuse me; what did we do with clauses 95 and 96? I understood that we stood clauses 95 and 96.

The JOINT CHAIRMAN (*Mr. Richard*): Yes; clauses 95, 96, 97 and 99.

Dr. DAVIDSON: The question here, Mr. Chairman, as I recall it, was whether or not certain steps in the negotiation procedure could be skipped by mutual agreement.

Mr. WALKER: Yes; that is right.

Mr. LOVE: Mr. Chairman, we have taken—

The JOINT CHAIRMAN (*Mr. Richard*): What clause are you talking about?

Dr. DAVIDSON: Clause 95.

Mr. LOVE: This point has been taken up with the legal officers, who have pointed out that clause 99 authorizes the board to make regulations relating to the circumstances in which any level below the final level may be eliminated.

The legal officers felt that this provided for the kind of flexibility that the Committee was concerned about.

Mr. WALKER: Clause 95 (1) is a very binding and mandatory sentence. Perhaps the problem is covered in clause 99. Do these two clauses stand alone?

Mr. RODDICK: Mr. Chairman, the need to retain the final level in all circumstances before a grievance may be referred to adjudication is there, in effect, to permit the final authority, who acts for the employer, perhaps to agree and therefore resolve the problem. For a party below the final level of the grievance procedure to be able to deny the grievance and to force the employee to take his grievance to the adjudicator, is to fail to use the highest court within the employer.

Mr. LEWIS: With great respect to the law officers who advised the officers here, I just do not like two contradictory provisions in a law. If clause 95 (1) says that no grievance shall be referred to adjudication unless the entire grievance procedure is followed, I say, with great respect, that you cannot say that you can in clause 99 (1) (d).

If that is what you have in mind, may I suggest a very simple amendment, saying: "subject to clause 99 (1) (d), no grievance shall be referred to adjudication..."

Mr. LOVE: I shall be happy to take that up, Mr. Chairman, as a suggestion.

Mr. LEWIS: You might tie the two in, so that you do not have two contradictory clauses.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clauses 95 and 99.

Mr. KNOWLES: With regard to clause 96, we were questioning the phrase "employee organization" where it appears in lines 24, 25 and 26. The suggestion was made the other day that perhaps it should be changed to "bargaining agent."

The JOINT CHAIRMAN (*Mr. Richard*): That has been done by amendment.

Mr. KNOWLES: It was done last time?

Mr. LEWIS: Subclause (5)?

The JOINT CHAIRMAN (*Mr. Richard*): In subclause (5) the word "employee" should be replaced by the words "bargaining agent."

Mr. LEWIS: You mean the words "employee organization."

Mr. LOVE: Mr. Chairman, I am sorry; I now recall the discussion. Members may remember that a number of questions were raised with respect to clause 96 (1). The point here is that under the provisions of clauses 96 (1) and 96 (3) the decision of an adjudicator must be filed with the board even before it goes to the parties. The only purpose we had in mind, I think, was that it would be desirable to have a source of reference material under the jurisdiction of the board to which the parties could have access; and I think there was a suggestion that clause 96 (3), particularly, should be changed in such a way that the adjudication decision would be sent directly to the parties, with a copy to the Board. The law officers are still considering that, and when they have worked it out we will be coming forward with a proposed amendment to clause 96. We do not have it this morning.

The JOINT CHAIRMAN (*Mr. Richard*): What about clause 97?

Mr. LEWIS: The point there, as I remember it, was about placing on the aggrieved employee—

Mr. LOVE: Mr. Chairman, once again this is a matter which is still under consideration. We do not have a proposed amendment at this time, but we think we will have one shortly.

Mr. LEWIS: What about clause 99?

Mr. LOVE: The same thing is true of clause 99, Mr. Chairman.

On clause 103—*Application for declaration of strike as unlawful*.

Mr. WALKER: I move that clause 103 of the said Bill be amended (a) by striking out line 44 on page 4 and substituting the following: lawful and the Board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration. ; and

(b) by striking out line 8 on page 48 and substituting the following: Board, after affording an opportunity to the employer to be heard on the application, may make such a declaration.

Mr. LOVE: Mr. Chairman, the proposed amendment to clause 103 would simply provide the other party with an opportunity to be heard on an application to the board to declare a strike illegal or legal.

Mr. LEWIS: This comes only from the employer in this case.

Mr. LOVE: There are two sections, Mr. Chairman.

Mr. LEWIS: What about subclause (1)?

Mr. LOVE: You are quite right; it is subclause (1).

Mr. LEWIS: And then you have subclause (2).

Amendment agreed to.

On clause 109—*Oath or affirmation to be taken.*

Mr. WALKER: I move that clause 109 of the said Bill be amended by striking out line 11 on page 49 and substituting the following: "form prescribed in Schedule D before any person authorized."

Mr. LOVE: Mr. Chairman, the proposed amendment to clause 109 is simply to change the designation of the schedule.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Next we have the proposed amendment to Schedule C.

Mr. LEWIS: What happened to clause 110?

Mr. LOVE: Mr. Chairman, this matter is still being considered, although the advice we have to date suggests that it would be desirable to retain the provision simply to ensure that somebody has a clear-cut responsibility to provide these third-party instruments with quarters and staff.

There is a similar provision in the Industrial Relations and Disputes Investigation Act, section 66, which places this obligation on the Minister.

Mr. KNOWLES: The board shall do it whether the Board has any quarters or not.

Mr. LOVE: This really means that the board would have the responsibility of doing battle with the Treasury Board and the Department of Public Works and the other elements of the bureaucracy, in order to insure—

Mr. LEWIS: I think that anybody who is going to do battle with them should be kept!

Mr. WALKER: What did you do with clause 113?

Mr. LOVE: Mr. Chairman, the legal officers are still struggling with clause 113.

The JOINT CHAIRMAN (*Mr. Richard*): The last suggested amendment is to Schedule C.

Mr. WALKER: I move that the said Bill be further amended by striking out Schedule C and substituting the following:

"SCHEDULE C.

(Section 56)

Government Employees Compensation Act

Government Vessels Discipline Act

Public Service Employment Act

Public Service Superannuation Act"

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, when do we meet?

Mr. LEWIS: We have made real progress, Mr. Chairman. Why do we not adjourn until Thursday morning?

The JOINT CHAIRMAN (*Mr. Richard*): Let us adjourn till Thursday morning at ten o'clock.

Mr. LEWIS: Do we have very much left?

Dr. DAVIDSON: We still have Bill No. C-182 left.

Mr. LEWIS: Mr. Chairman, may I suggest that you keep in touch with Mr. Béchard. There are several of us on both Committees, and on mornings when the other committee is not meeting we can meet at 10 o'clock; but when that committee is meeting perhaps you would delay it a bit.

The JOINT CHAIRMAN (*Mr. Richard*): All right.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

Copies and complete sets are available to the public by subscription to the Queen's Printer. Cost varies according to Committees.

Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 23

THURSDAY, DECEMBER 1, 1966

Respecting
BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, *Treasury Board*; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service; Mr. J. J. Carson, Chairman, Civil Service Commission.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	Mr. Langlois
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	(<i>Chicoutimi</i>),
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. Madill,
Mr. Denis,	Mr. Crossman,	Mr. McCleave,
Mr. Deschatelets,	Mr. Émard,	Mr. Patterson,
Mrs. Fergusson,	Mr. Éthier,	Mr. Rochon,
Mr. Hastings,	Mr. Fairweather,	Mr. Sherman,
Mr. MacKenzie,	¹ Mr. Hymmen,	Mr. Simard,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Isabelle,	Mr. Tardif,
<i>Guysborough</i>),	Mr. Knowles,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Lachance,	Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

¹ Replaced Mr. Chatwood on November 29, 1966.

ORDER OF REFERENCE
(House of Commons)

TUESDAY, November 29, 1966.

Ordered,—That the name of Mr. Hymmen be substituted for that of Mr. Chatwood on the Special Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, December 1, 1966.

(41)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.47 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Deschatelets, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Chatterton, Émard, Hymmen, Knowles, Lewis, Madill, McCleave, Patterson, Richard, Tardif, Walker (11).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, R. G. Armstrong, Staff Officer, Preparatory Committee on Collective Bargaining in the Public Service; Messrs. J. J. Carson, Chairman, J. Charron, Secretary, Civil Service Commission.

The Committee considered clauses of Bill C-170 allowed to stand at previous meetings as follows:

Clause 1, stand; Paragraph 2(o), carried as amended (see motion below); sub-paragraph 2 (u) (iv), carried as amended (see motion below); Sub-paragraph 2(u) (vii), carried as amended (see motion below); Clause 5, carried as amended (see motion below); Clause 7, carried as amended (see motion below); Clause 13 in French version, carried as amended (see motion below); Clause 18, stand; Paragraph 19(1) (k), carried as amended (see motion below); Clause 23, carried as amended (see motion below); Clause 28, stand; Clause 34, carried as amended (see motion below); Clause 37, carried as amended (see motion below); Clause 38, carried as amended (see motion below); Sub-clause 39(2), stand; Sub-clause 39(3), carried as amended (see motion below); Clause 44, carried in original words (see motion below); Sub-clause 49(1), carried as amended (see motion below); Clause 58, carried as amended (see motion below); Clause 63 in French version, carried as amended (see motion below); Sub-clause 72(1), carried; Clause 95, carried as amended (see motion below); Clause 96, carried as amended (see motion below); Clause 97, carried as amended (see motion below); Clause 99, stand; Sub-clause 113(2), carried as amended (see motion below); Clause 114, carried as amended (see motion below).

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 2 of the said Bill be amended by striking out paragraph (o) and substituting the following therefor:

- “(o) “employer” means Her Majesty in right of Canada as represented by,
- (i) in the case of any portion of the public service of Canada specified in Part I of Schedule A, the Treasury Board, and
 - (ii) in the case of any portion of the public service of Canada specified in Part II of Schedule A, the separate employer concerned;”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-paragraph 2(u)(iv) be amended by striking out line 33 and substituting the following therefor:

“administrator or who has duties that cause him to”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-paragraph 2(u)(vii) be amended by striking out lines 45 to 49 inclusive and substituting the following therefor:

“paragraph (iii), (iv), (v) or (vi), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;”.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 5 and marginal note be struck out and the following substituted therefor:

“Authority to transfer within Schedule A.

5. (1) The Governor in Council may by order delete the name of any portion of the public service of Canada specified from time to time in Schedule A from Part I or Part II thereof, and shall thereupon add the name of that portion to the other part of Schedule A, except that where that portion

(a) no longer has any employees, or

(b) is a corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*,

he is not required to add the name of that portion to the other part of Schedule A.

Where corporation deleted from one part of Schedule A and not added to other part.

(2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act* and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 7 be struck out and the following substituted therefor:

“7. Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service and to assign duties to and classify positions therein.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 13(1) in the French version of Bill C-170 be amended by striking out lines 9 and 10 and substituting the following therefor:

“13. (1) Une personne n'est pas admissible à occuper un poste de membre de la Commission si”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That paragraph 19(1)(k) be amended by striking out lines 24 to 29 inclusive and substituting the following therefor:

“(k) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28; and”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 23 be struck out and the following substituted therefor:

“23. Where any question of law or jurisdiction arises in connection with a matter that has been referred to the Arbitration Tribunal or to an adjudicator pursuant to this Act, the Arbitration Tribunal or adjudicator, as the case may be, or either of the parties may refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That paragraph 34(d) be struck out and the following substituted therefor:

“(d) is satisfied that the persons representing the employees organization in the making of the application have been duly authorized to make the application,”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 37 together with marginal notes be struck out and the following substituted therefor:

37. (1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified.

(2) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) of section 36 and recorded by the Board under subsection (1) of this section shall be the process applicable to that bargaining unit for the resolution of all disputes.

from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process, and thereafter until the process is altered in accordance with section 38."

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clauses 38(2), (3), (4) and (5) together with marginal notes be struck out and the following substituted therefor:

"Alteration
to be
recorded.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute.

Effective
date and
duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2)."

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 39(3) be struck out and the following substituted therefor:

"(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee by reason of sex, race, national origin, colour or religion."

By leave, the Committee agreed unanimously to the withdrawal of the amendment to Clause 44 carried at meeting (36) November 22, 1966, thereby restoring the clause to its original text.

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 49(1) be amended by striking out lines 26 to 28 inclusive and substituting the following therefor:

"(49) (1) Where the Board has certified an employee organization as bargaining agent for a bargaining unit and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36,"

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 58 be amended by striking out lines 31 and 32 and substituting the following therefor:

"purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the em—".

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 63(1) in the French version be amended by deleting the word "aucune" line 39 and substituting the word "une" therefor.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 95(1) be amended by striking out line 26 and substituting the following therefor:

“95. (1) Subject to any regulation made by the Board under paragraph (d) of subsection (1) of section 99, no grievance shall be referred to adjudica-”.

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clauses 96(1) to (3) inclusive and marginal notes be struck out and the following substituted therefor;

96. (1) Where a grievance is referred to adjudication the ad-^{Hearing of}judicator shall give both parties to the grievance an opportunity of ^{grievance.}being heard.

(2) After considering the grievance the adjudicator shall ren-^{Decision on}der a decision thereon and ^{grievance.}

(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board.

(3) In the case of a board of adjudication, a decision of the ^{Decision of}majority of the members on a grievance is a decision of the board ^{board of}adjudication, and the decision shall be signed by the chairman of the ^{adjudication.}board.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That the marginal note to sub-clause 96(5) be struck out and the following substituted therefor:

“Action to be taken by employee or bargaining agent.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 97(2) be struck out and the following substituted therefor:

“(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, and the employee whose grievance it is is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent is liable to pay and shall remit to the Board such part of the costs of the adjudication as may be determined by the Secretary of the Board with the approval of the Board, except that where the grievance is referred to a board of adjudication, the remuneration and expenses of the nominee of each party shall be borne by each respectively.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That new sub-clause 97(3) and marginal note be added:

“Recovery. (3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person.”

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 113(2) be struck out and the following substituted therefor:

“(2) Where the Governor in Council excludes any corporation from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*, he shall, by order, add the name of that corporation to Part I or Part II of Schedule A.”

By leave, moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That sub-clause 114(2) together with marginal note be deleted.

By leave of the Committee, it was moved by Mr. Walker, seconded by Hon. Senator Fergusson and

Resolved,—That Clause 12 of Bill C-181 be amended by adding a new sub-clause with marginal note as follows:

“Consultation. (3) The Commission shall from time to time consult with representatives of any employee organization certified as a bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that Act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable.”

At 11.30 a.m., the meeting adjourned to 9.30 a.m. the next day following.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, December 1, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I see we have a quorum. We will now start what I hope will be a final disposition of the remaining amendments to a certain number of clauses, beginning with clause 2. Have they been distributed?

On Clause 2—*Definitions*.

Dr. DAVIDSON: Mr. Chairman, has everyone a set of these new amendments?

The JOINT CHAIRMAN (*Mr. Richard*): Has everyone a set of these new amendments?

The amendment reads as follows: That clause 2 of the said Bill be further amended by striking out paragraph (o) and substituting the following:

- (o) "employer" means Her Majesty in right of Canada as repre—"Employer." sent by,
 - (i) in the case of any portion of the *public service of Canada specified in Part I of Schedule A*, the Treasury Board, and
 - (ii) in the case of any portion of the public service of Canada specified in Part II of Schedule A, the separate employer concerned;

Dr. DAVIDSON: This is a technical change for clarification purposes that we have picked up on our own initiative, Mr. Chairman. It is simply designed to make it clear that the employer in the case of the Public Service generally is the Treasury Board, and in the case of separate employers is the separate employer.

Mr. EMARD: I so move.

Senator DESCHATELETS: I second the motion.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 2, paragraph (u) is next. The amendment reads:

That paragraph (u) of clause (2) of the said bill be amended (a) by striking out line 9 on page 4 and substituting the following:

- (u) "person employed in a managerial or confidential capacity", "Person employed in a managerial or confidential capacity."
- (b) by striking out lines 14 to 16 on page 4 and substituting the following:
chequer Court of Canada, the deputy head of a department or the chief executive officer of any other portion of the;

- (c) by striking out line 33 on page 4 and substituting the following:
administrator or who has duties that cause him to; and
- (d) by striking out lines 45 to 49 on page 4 and substituting the following:
paragraph (iii), (iv), (v) or (vi), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

Dr. DAVIDSON: (a) and (b) here, Mr. Chairman, represent no change, they were approved the day before yesterday. We agreed to look at the question raised by Mr. Lewis under sub-heading (c), and we agreed also to look at an other point under sub-heading (d). We have not, after careful consideration, concluded that we should make any change in the sub-heading (c) which refers to the exclusion of persons whose duties include those of a personnel officer or who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer. Under sub-heading (d), however, we have endeavoured to meet Mr. Lewis's concern and that of other members with respect to sub-heading (VII) under sub-paragraph (u) on page 4 of the printed Bill, and we now provide in this catch-all clause that a person employed in a managerial capacity means any person who is not other-wise described in the previous sub-paragraphs (III) (IV) (V) and (VI), but who in the opinion of the board should not be included in the bargaining unit by reason of his duties and responsibilities to the employer.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 5.

On Clause 5—*Authority to transfer within Schedule A.*

The amendment reads:

That the said Bill be further amended by striking out clause 5 and substituting the following:

Authority to transfer within Schedule A. 5. (1) The Governor in Council may by order delete the name of any portion of the public service of Canada specified from time to time in Schedule A from Part I or Part II thereof, and shall thereupon add the name of that portion to the other part of Schedule A, except that where that portion

(a) no longer has any employees, or

(b) is a corporation that has been excluded from the provisions of Part I of the Industrial Relations and Disputes Investigation Act,

he is not required to add the name of that portion to the other part of Schedule A.

Where corporation deleted from one part of Schedule A and not added to other part. (2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the Industrial Relations and Disputes Investigation Act and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect.

Dr. DAVIDSON: Clause 5 is a clarification and improvement of wording that I think will commend itself to the members of the Committee. It provides that the Governor in Council may delete the name of any portion of the public service from either Part I or Part II of Schedule A and it provides also that when he does so, he must transfer it to the other Part of the Schedule, with two exceptions. If the portion of the public service that is being deleted has no employees and has become a dead letter on the books, that name is simply dropped. If it is a corporation that has previously been excluded from the provisions of Part I of the Industrial Relations Disputes Investigation Act, the Governor in Council is not required to add the name of that corporation to the other part of the schedule A, but then section 2 takes over, and provides that the Governor in Council must either add it to Schedule A, Part I, or he must put it under the provision of the I.R.D.I. Act. This clause taken together with the change in clause 113 which is in the amendments that are now before the Committee, gives complete assurance that any portion of the public service must either on transfer be transferred from one Part of the Schedule to another Part of the Schedule or, if not retained under the Public Service Staff Relations Act, be placed under the Industrial Relations and Disputes Investigation Act.

Mr. LEWIS: What you are saying in subsection 2 is that if he does transfer anything excluded from the Industrial Relations and Disputes Investigation Act, if he does not put it in one of the schedules of this act, then the exclusion from the other act is wiped out.

Dr. DAVIDSON: Wiped out and it therefore reverts to being covered by that other act.

The JOINT CHAIRMAN (*Mr. Richard*): Carried?

Mr. McCLEAVE: Mr. Chairman, the other day we had a discussion on an attempt to transfer the employees of the Printing Bureau from one section to another, so I take it that under the new provisions, they should take their complaint or their request yearly to the Governor in Council and put the pressure there. Is that right, Dr. Davidson.

Dr. DAVIDSON: It is open to the Governor in Council to transfer from Part I of Schedule A to Part II of Schedule A.

The JOINT CHAIRMAN (*Mr. Richard*): Carried.

Amendment agreed to.

Dr. DAVIDSON: Could I just add one further point, Mr. Chairman. Mr. Bell suggested that there was need to provide in clauses 4 and 5 that any orders made by the Governor in Council affecting the transfer of a portion of the public service from one Part of Schedule A to another Part should be published in the *Canada Gazette*. We have taken this up with the legal officers; they assure us that the requirement to publish orders of the Governor in Council in the *Canada Gazette* is already provided for in the Regulations Act, section 6(1). It is true that there is in 9(2) of the same Regulations Act provision that the Governor in Council may by regulation make certain exceptions, but where that is done, the Governor in Council must publish the order in which the exceptions are specified, and it is clearly the intention and the requirement, unless that exception is made, to publish these in the *Canada Gazette*.

Mr. McCleave: Thank you, Dr. Davidson.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 5 carried.

Clause, as amended, agreed to.

On clause 7—*Right of employer*.

The amendment reads:

That the said Bill be further amended by striking out clause 7 and substituting the following:

Right of
employer. 7. Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service and to assign duties to and classify positions therein.

Dr. DAVIDSON: Clause 7 is, Mr. Chairman, our attempt to meet the concern of a number of the members of the Committee with respect to this provision that reserves to the employer certain rights and authorities to act in certain fields. The words which caused the Committee concern were the final words "and to assign duties to employees". You will see from our text that we have struck out any reference to assigning duties to employees. We have provided rather that the duties referred to are duties to be assigned to positions, and this provides that nothing shall affect the right or authority of the employer to: (1) determine the organization of the public service—that was not at issue; (2) to assign duties to or to classify positions, and that is of course reserved for the employer.

Amendment agreed to.

Clause, as amended agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next amendment is in the French version Bill C-170 clause 13 (1). The amendment reads:

That the French version of Bill C-170, An Act respecting employer and employee relations in the Public Service of Canada be amended by striking out lines 9 and 10 on page 9 thereof and substituting the following:

Qualités
requisés. 13. (1) Une personne n'est pas admissible à occuper un poste de membre de la Commission si

Dr. DAVIDSON: The essence of this change, Mr. Chairman, applies to the French text only. There was previously a discrepancy between the French and English text, under which it was open to interpretation that the French text provided that a person could not be nominated under certain conditions. This provides that a person may be nominated, but he cannot occupy the post if he is disqualified on certain grounds.

The JOINT CHAIRMAN (*Mr. Richard*): That has to do with the word "aucune".

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 19—*Authority of board to make regulations*.

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads: That subclause (1) of clause 19 of the said Bill be amended (a) by striking out paragraph (f) and substituting the following:

- (f) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations; and
- (b) by striking out paragraph (k) and substituting the following:
- (k) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;

Dr. DAVIDSON: There is no change in (a), Mr. Chairman. We have looked at the wording of (b) and we have made a minor change in the wording by deleting the words "to constitute" which previously appeared between 'considered' and 'appropriate authority'.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 23—*Questions of law or jurisdiction to be referred to board.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That the said Bill be amended by striking out clause 23 and substituting the following:

23. Where any question of law or jurisdiction arises in connection with a matter that has been referred to the Arbitration Tribunal or to an adjudicator pursuant to this Act, the Arbitration Tribunal or adjudicator, as the case may be or either of the parties may refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof.

Questions of law or jurisdiction to be referred to Board.

Dr. DAVIDSON: Clause 23, as we had it at Tuesday's meeting, Mr. Chairman, provided that where any question of law and jurisdiction arises in an arbitration or adjudication, the arbitrator or the adjudicator, "shall refer" the said question to the board,—the Public Service Staff Relations Board,—for a hearing, and determination, but that the proceedings will continue unless the board otherwise orders. It was questioned whether this should be mandatory upon the arbitrator or the adjudicator in all cases to refer a question of law or jurisdiction. We have altered the wording to provide that the adjudicator may refer it or either of the parties may refer it. If there is general agreement that there is no need to refer it, the matter can proceed and be dealt with there.

amendment agreed to.

Clause, as amended agreed to.

On clause 28—*Application by Council Organizations.*

Dr. DAVIDSON: Clause 28 is the question, Mr. Chairman, that has not yet been resolved arising out of certain proposals that have been put forward for consideration by Mr. Émard and Mr. Lachance.

Mr. WALKER: Mr. Chairman, I have to ask the indulgence—

The JOINT CHAIRMAN (*Mr. Richard*): Just a moment please. Are we on clause 28 now?

Dr. DAVIDSON: I think so. There is nothing in here, but I was just bringing it to the attention of the Committee.

Mr. WALKER: Mr. Chairman, I have to ask the indulgence of the Committee, if they will. If you remember at the last Committee meeting I asked if we could stand this because there was somebody I wanted to speak to about it. I was unable to speak to him until Monday and I wondered if you could stay with me and just stand this for the time being.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Clause 28 stands.

On clause 34—*Certification of employee organization as bargaining unit.*

The amendment reads:

That clause 34 of the said Bill is amended by striking out paragraph (d) and substituting the following:

- (d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to make the application,

Dr. DAVIDSON: In clause 34, Mr. Chairman, there is a very small technical amendment to simplify the wording of 34 (d). We want to be sure that the employee organization has been duly authorized to make the application. This, I think, was Mr. Bell's suggestion and there is no reference now "to act for the members of the organization". That is assumed. If it is duly authorized, then it is duly authorized.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Carried.

On clause 37—*Certification to record process for resolution of disputes.*

The amendment reads:

Process for resolution of disputes to be recorded. 37. (1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified.

Period during which process to apply. (2) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) of section 36 and recorded by the Board under subsection (1) of this section shall be the process applicable to that bargaining unit for the resolution of all disputes from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process, and thereafter until the process is altered in accordance with section 38.

Dr. DAVIDSON: The change in Clause 37, Mr. Chairman, can be stated briefly by saying to the Committee that if, and I say "if," Mr. Lewis is still willing to accept the change that he said he was willing to accept if we did something last day, if that willingness still persists, we are willing to make this change.

Mr. LEWIS: Like all collective bargaining carried on in good faith, we have arrived at the sensible conclusion.

Dr. DAVIDSON: Thank you.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 38—*Application for alteration process.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That the said Bill be further amended by striking out subclauses (2), (3), (4) and (5) of clause 38 and substituting the following:

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2).

Mr. LEWIS: I am reading this right that the choice of the route is from notice to bargain to notice to bargain?

Dr. DAVIDSON: That is right. No bargaining session can commence unless the rules of the game, one way or the other, have been specified by the bargaining unit ahead of time.

Mr. LEWIS: As I read it, what you have provided is that if the bargaining agent makes a choice in the year 1967, then that is the choice that prevails until such time as he makes another choice prior to notice to bargain.

Dr. DAVIDSON: That is correct. So, if he fails to file a choice with his first notice to bargain, he is not allowed to give notice to bargain. He must file a choice with his first notice to bargain. That remains the choice of that bargaining agent until such time as at the point of giving a subsequent notice to bargain, he files an alternative choice.

Mr. LEWIS: Or really in between at any time between the two notices.

Dr. DAVIDSON: Yes.

Mr. LEWIS: And it is then that the new choice will apply to the next following notice.

Dr. DAVIDSON: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 38.

Dr. DAVIDSON: It follows on from 37.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 38 carried.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 39—*Where participation by employer in formation of employee organization.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That the said Bill be further amended by striking out subclause (3) of clause 39 and substituting the following:

Where discrimination by reason of race, etc. (3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee by reason of sex, race, national origin, colour or religion.

Dr. DAVIDSON: In clause 39, there are two points, Mr. Chairman. We have co-ordinated our references to sex, race, national origin, colour or religion to the wording that is contained in the Public Service Employment bill.

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Carried. Clause 72.

Dr. DAVIDSON: Before we go on, Mr. Chairman, 39, I think I should reserve on behalf of the Committee, sub-section 2 which will have to be dealt with again in the light of the Committee's decision on political activity of the members of the public service. Stand 39(2).

Clause 39(2) stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 72.

Dr. DAVIDSON: I am sorry again, Mr. Chairman. Clause 44—we are catching up to a few points here that are not in the package. On my suggestion at an earlier stage the opening words of clause 44 of the printed bill were deleted. I am told by our legal advisors now that I did a wrong thing and that they should be put back, otherwise, it could be interpreted that the provision of 44 and 44 alone apply to an employee council.

The JOINT CHAIRMAN (*Mr. Richard*): Is that another amendment?

Dr. DAVIDSON: Well, it is a proposal to restore the original wording of clause 44.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 44 restored as in the original bill. Carried. Have you anything else before 72 now?

Dr. DAVIDSON: No, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 72.

On clause 58—*Binding effect of agreement.*

Dr. DAVIDSON: I apologize again, Mr. Chairman, 58. We were proposing to add some words to 58 such as "council of employee organizations" or "constituent elements" but after reflecting further we have decided to suggest to the Committee that no change be made in 58; that it remain exactly as printed. It will be assumed that the reference to the bargaining unit and to the bargaining agent binds the respective employee organizations as well as the council itself in cases where the bargaining agent is a council of employee organizations.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 58 carried as originally printed. Anything else now before we get to 72?

On clause 49—*Notice to bargain collectively*.

Dr. DAVIDSON: The amendment to clause 49 was the change that we made that Mr. Lewis conditionally agreed to last day which I think the Committee should pronounce upon. It provides that the bargaining agent must specify the process for the settlement of the dispute before he can give notice to bargain. This is the second half of clause 49.

The JOINT CHAIRMAN (*Mr. Richard*): Oh.

Mr. LEWIS: Did we have the amendment last time?

Dr. DAVIDSON: Yes, sir, it was in your package.

Mr. LEWIS: We stood it until we were sure about 37 and 38.

The JOINT CHAIRMAN (*Mr. Richard*): That is right. Clause 49 carried. Amendment agreed to.

Clause, as amended, agreed to.

On Clause 72—*Binding effect of arbitral award*.

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That clause 72 of the said Bill be amended by striking out lines 27 and 28 on page 34 and substituting the following:

on the parties but not before,

- (a) in the case of an arbitral award rendered during the initial certification period, a day four months before the day specified in Column I of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and
- (b) in any other case, the day on which notice to bargain collectively was given by either party.

Dr. DAVIDSON: Could Mr. Roddick speak on 72, Mr. Chairman?

Mr. RODDICK: Mr. Chairman, this is the comparable clause that we have just dealt with in 58. There were two changes in the amendment that was given to you last day. The first one included this phrase "constituent elements". We are therefore proposing to remove that element of last day's amendment and to leave only the second part which also was included in your amendment of last day. I believe this second part was passed; it was only the first part that was reserved and in the first part, we are asking that that amendment be deleted and the original clause in the bill be restored.

Senator DESCHATELETS: Mr. Chairman, what does "a day four months" mean?

Mr. LOVE: Mr. Chairman, as I recall it, we did in fact deal with this at the last meeting. The members of the Committee will recall that the explanation for (a) is that we want to make it possible for an arbitral award during the initial certification period to go back beyond the day on which notice to bargain was given to the normal pay review date. In the case of the Operational Category, for example, this would be October 1, 1966. Except for the initial certification

period, the arbitral award may go back only to the point in time when notice to bargain was given. I do not think there was really any discussion or any disagreement on (a) and (b) as they are stated here, but in the previous amendment relating to clause 72, there was a further amendment, which is not referred to here and which said in effect that an arbitral award for the purpose of the act was binding on the employer, the bargaining agent and its constituent elements, and the employees. We are saying now that that part is no longer appropriate in view of the decision reached by the Committee this morning.

Mr. LEWIS: Would you take a moment to look at the printed 72 and the present amendment which excludes the part of the earlier amendment and indicate exactly how 72 would now read. I think that would help the Senator and all of us.

Mr. LOVE: Mr. Chairman, as I understand it, 72(1) would stand as originally printed in the bill.

Mr. LEWIS: Right.

Mr. LOVE: You then go down to lines 27 and 28 to pick up the amendment that is now before you.

Mr. LEWIS: In other words it now reads: "The arbitral award becomes binding on the parties" and from there on you read the present amendment but not before (a) and (b).

Dr. DAVIDSON: Correct.

Mr. LOVE: That is right.

Mr. LEWIS: And then (3) remains as it is in the printed version.

Mr. LOVE: Yes, that is right. Sub-section (3) remains.

Mr. LEWIS: The (1) and (3) remain as they were and (2) is amended by the addition really of the new amendment.

Mr. LOVE: Yes, that is right.

Amendment agreed to.

Clause, as amended, agreed to.

On Clause 83—*Terms of reference of conciliation board.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That clause 83 of the said Bill be amended by striking out line 3 on page 39 and substituting the following:
tion board a statement setting forth the

Dr. DAVIDSON: This is a purely technical correction, Mr. Chairman, making certain that the third line in 83 is read without the words "prepared by him" in it.

The JOINT CHAIRMAN (*Mr. Richard*): I thought that was agreed last time?

Mr. RODDICK: Mr. Chairman, could I make an observation? It was agreed last time that the word 'board' was inadvertently omitted from the printed amendment and has been restored in this version.

Amendment agreed to.

Clause, as amended, agreed to.

Dr. DAVIDSON: Clause 94, Mr. Chairman, is for the purpose of substituting at three places in this clause the word 'employee' for the word 'person' which was—

The JOINT CHAIRMAN (*Mr. Richard*): That was agreed.

Dr. DAVIDSON: Sorry. I was not listening; I must have missed part of the discussion last time.

On clause 95—*Compliance with procedures in grievance process.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That subclause (1) of clause 95 of the said Bill be amended by striking out line 26 on page 43 and substituting the following:

95. (1) Subject to any regulation made by the Board under paragraph (d) of subsection (1) of section 99, no grievance shall be referred to adjudica—
Compliance with procedures in grievance process.

Mr. LOVE: Mr. Chairman, I think in the previous discussion the members felt that there might be some inconsistency between 95 and paragraph (d) of subclause 1 of clause 99, and I believe it was Mr. Lewis who suggested that 95 should therefore start out with the phrase indicated in the amendment, that is "Subject to any regulation made by the board under paragraph (d) of subsection 1 of 99".

The JOINT CHAIRMAN (*Mr. Richard*): Agreed.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 96—*Decisions of adjudicator.*

The amendment reads:

That clause 96 of the said Bill be amended (a) by striking out subclauses (1) to (3) and substituting the following:

96. (1) Where a grievance is referred to adjudication the adjudicator shall give both parties to the grievance an opportunity of being heard.
Hearing of grievance.

(2) After considering the grievance the adjudicator shall render a decision thereon and
Decision on grievance.

(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board.

(3) In the case of a board of adjudication and decision of the majority of the members on a grievance is a decision of the board thereon, and the decision shall be signed by the chairman of the board.; and
Decision of board of adjudication.

(b) by striking out subclause (5) and substituting the following:

(5) Where a decision on any grievance requires any action by or on the part of an employee or a bargaining agent or both of them, the employee or bargaining agent, or both, as the case may be, shall take such action.
Action to be taken by employee or bargaining agent.

Mr. LOVE: Mr. Chairman, I think the committee has more or less agreed in previous discussions that sub-clause 5 of 96 should be amended to substitute the phrase "bargaining agent" for "employee organization" in the two places in which that phrase occurs. It was stood the last time because we wanted as well to be in a position to bring in amendments to subclauses (1), (2) and (3) in order to do away with the requirement that an adjudication award should be sent to the board before being sent to the parties. The effect of this amendment is to provide that an adjudication award is sent to the parties, with a copy to the board. A copy is sent to the board so that a central reference service may be provided.

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed.

On clause 97—*Where adjudicator named in collective agreement.*

The amendment reads:

That clause 97 of the said Bill be amended by striking out sub-clause (2) and substituting the following:

Where no
adjudicator
named in
agreement.

(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, and the employee whose grievance it is is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent is liable to pay and shall remit to the Board such part of the costs of the adjudication as may be determined by the Secretary of the Board with the approval of the Board, except that where the grievance is referred to a board of adjudication, the remuneration and expenses of the nominee of each party shall be borne by each respectively.

Recovery.

(3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person.

Mr. LOVE: Mr. Chairman, Clause 97 is concerned with the expenses of adjudication. Committee members will recall there was concern expressed, I believe by Mr. Bell and others, about the provision which suggested that an individual employee not supported by a bargaining agent might be assessed charges for the costs of adjudication. The effect of the amendment now before you is to retain provision for the assessment of costs in so far as bargaining agents are concerned, but to remove any reference to individual employees. What this means is that, if a case is taken to adjudication on a matter arising out of an agreement, or otherwise with the support of the bargaining agent, the bargaining agent will be responsible for a share of the costs.

Mr. LEWIS: Certified by the secretary!

Mr. LOVE: That is right.

Dr. DAVIDSON: The secretary of the board, not of the Treasury Board.

Mr. ÉMARD: Are there going to be any cases where the bargaining agent will not be responsible for his share of the costs for grievances presented by some employees.

Mr. LOVE: Yes, Mr. Chairman; under the bill it will be possible for an individual employee to carry a case to adjudication on a matter arising out of a disciplinary action resulting in discharge, suspension, or financial penalty. I think the origin of that provision lies in the fact that individual employees now have the right to carry these matters to appeal under the provisions of the Civil Service Act—So this is really the protection of rights of the individual employee that have been more or less traditional.

Mr. LEWIS: You said 'yes' to Mr. Émard's question, Mr. Love. May I suggest that with respect that the 'yes' is not accurate. What it seems to me you provide is that in every case where the employee is represented by a bargaining agent, whether or not the employee is a member of the bargaining unit, but if the bargaining agent is there, the bargaining agent shares in the cost. If the employee is alone, and is not represented by the bargaining agent, then the bargaining agent does not share in the costs, nor does the employee. Is that not right? Is that not the effect of it?

Mr. LOVE: Yes.

Mr. LEWIS: If the employee is not represented by a bargaining agent, then he does not have to share the cost.

Mr. LOVE: That is right.

Mr. LEWIS: But whenever a bargaining agent is present, then the bargaining agent is assessed some costs.

Mr. LOVE: That is right.

Mr. ÉMARD: In other words, if the employee is taking up his grievance with the consent of the union, the union will pay for a part of it; but if the employee should go and take his grievance without the consent of the union, then he has to pay for whatever costs there may be.

Mr. LEWIS: Neither he nor the bargaining agent pays, the poor Treasury Board pays.

Mr. ÉMARD: No one pays for his case?

Mr. LOVE: That is right; but the only cases in which this will be possible will as I understand it, be cases arising out of discharge, suspension, or financial penalty. In all other cases the bargaining agent must support the adjudication.

Mr. RODDICK: Mr. Chairman, if I can add what I am afraid is a further complexity to Mr. Love's statement, if these matters have been dealt with in a collective agreement, if they are the subject of a collective agreement, then the employee would not be permitted to take them to adjudication without the support and representation of his bargaining agent.

The JOINT CHAIRMAN (*Mr. Richard*): Carried.

Mr. LOVE: Mr. Chairman, I am sorry to interrupt but I feel I should speak to the proposed 3, which picks up—

Mr. LEWIS: I am sorry to do it at this late date, you have this awkward phrase throughout 'the employee whose grievance it is'. There is one single word for that—the griever.

An hon. MEMBER: The squawker.

Mr. LEWIS: Well, is there any reason why you cannot use the single word the "griever" instead of the employee whose grievance it is.

Mr. RODDICK: Mr. Chairman, if I could, I hope make a diplomatic response to Mr. Lewis' proposal, we who worked originally on the legislation found this a very appropriate word to cover this rather awkward situation. We were not able to convince our legislative draftsmen that it was quite appropriate enough.

Mr. LEWIS: Every time I listen to comments on my profession I think I should have chosen my first desire, which was to be a professor.

The JOINT CHAIRMAN (*Mr. Richard*): Order.

Mr. LOVE: Mr. Chairman, I would draw to the attention of the members that subclause 3 of Clause 97 picks up the present provision in the second part of 114. The draftsman felt that this was really a more appropriate place to put this particular provision.

Mr. RODDICK: Mr. Chairman, it must also be added that I think the original 114 (-2) referred to a person, because, the way the legislation was drafted, it presumed that only employees would have a liability placed on them. The proposals of the Committee have shifted this liability from a person to an employee organization and it is therefore necessary to make an employee organization a person in law for this limited and particular reason.

Amendment agreed to.

Clause, as amended, agreed to.

On clause 99—*Authority of board to make regulations respecting grievances.*

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That clause 99 of the said Bill be amended (a) by striking out line 26 on page 45 and substituting the following:

Authority of Board to make regulations respecting grievances. 99. (1) The Board may make regulations of *general application* in relation

(b) by striking out line 10 on page 46 and substituting the following: seven employee organizations in respect of the; and

(c) by striking out paragraph (j) of subclause (1) and renumbering paragraphs (k) and (l) as (j) and (k), respectively.

Mr. LOVE: Mr. Chairman, it is now proposed that the regulation-making powers of the board with respect to grievances should be restricted by the introduction of the phrase "of general application". To begin with, I might say that this change would be in line with the original intent, which from the beginning has been that the board would lay down regulations that would have the effect of minimum standards relating to all grievance procedures in all

government departments and agencies. We think the words "of general application," help to make this clear.

In other words, the board would not be able under this clause, with the addition of these words, to make regulations governing the details of a grievance procedure relating to a particular bargaining unit. The details of the grievance procedure relating to a particular bargaining unit would be open to discussion between the parties and to agreement if they could agree.

I might say that we feel fairly strongly that for the foreseeable future at least there should be a reasonable degree of consistency in the grievance procedures applying in all government departments and agencies.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 99; does it carry?

Mr. LEWIS: I do not want to be quoted, Mr. Chairman, as still objecting and voting against it. I do not think the addition of the words "of general application" make the present proposed clause any the less undesirable. I do not know why the officials, or the minister or whoever it is, insists that the Staff Relations Board is to have the authority to make regulations of general application, when all that that means is that it applies to everyone, as far as I understand English. It applies to every collective agreement; that is all the addition of the words "of general application" conveys to me. What we are doing is setting out in the act the grievance procedure that ought to be a matter of collective bargaining. Now, as I said last time, I personally would have no objection if this authority to set out grievance procedure is intended to cover the initial period, the hiatus, between now and the time when collective agreements are negotiated. I do not want to make another speech on it. One does these things once; ten times is enough; it just takes up the time of the Committee, but I think I just—forgive me for saying so—it is official obstinacy in wanting to dot every 'i' and cross every 't'; to have in the act, I was going to say bureaucratic obstinacy, Dr. Davidson. I just do not understand why you need legislation to provide for a matter which is a common matter of collective bargaining and about which you are not going to have any difficulty.

Mr. LOVE: I am sorry, Mr. Chairman; I think it is important to recognise that the aim here is to establish a grievance procedure in all government departments that would be applicable both to occupational groups in which there is a bargaining agent and to occupational groups in which there is not. Furthermore, the clear intent is that the grievance procedures should be available to individuals as individuals in circumstances where we are dealing with questions of discharge, suspension and financial penalty. The intent is that there be grievance procedure reflecting minimum standards available to all public servants.

Mr. LEWIS: Mr. Chairman, I want to move an amendment. I have asked my colleague to draft it.

Mr. McCLEAVE: Could I ask just one question. Is it the intent to use this to fill any vacuum that may be created; that is, assume that the collective bargaining does not set up the procedures that Mr. Lewis refers to, will there be enough flexibility that any regulations will apply, say in the absence of procedures agreed upon by the two bargaining sides, or does this just impose actually regulations and a code of procedure that must be followed in all cases?

Mr. LOVE: I think the operative words are 'may make regulations'

Mr. McCLEAVE: Well, assume that they do make regulations as a result of this power, are they imposed upon everyone willy-nilly, or can the bargaining units collectively bargain a different form of procedure?

Mr. LOVE: It would be open to the board to provide this kind of flexibility if it so wished.

Mr. LEWIS: Mr. Chairman, I want to bring this to a head and I would like to move, seconded by Mr. Knowles, the following amendment:

"That clause 99, subclause 1, be amended by inserting at the beginning of the subclause the following words: 'except in cases where a collective agreement provides a grievance procedure, the board may make regulations of general application' "

The JOINT CHAIRMAN (*Mr. Richard*): Would you read that again, Mr. Lewis. Can I have a copy?

Mr. Lewis moves, seconded by Mr. Knowles, that Clause 99 (1) be amended by inserting at the beginning of the subclause, the following words:

"except in cases where a collective agreement provides a grievance procedure,"

Mr. LEWIS: Actually, this is what Mr. McCleave was in effect suggesting.

Mr. McCLEAVE: I was wondering if it were possible that the grievance procedure that was reached would cover all the points that are set forth in 99.

Mr. LEWIS: That might well be so.

Mr. McCLEAVE: For that reason I would certainly support the spirit of Mr. Lewis' amendment, but I wonder whether it should not perhaps lie over until next Monday so that the legal counsel for the department will have a chance to check it.

Mr. LEWIS: I have no objection to this being considered by the officials and the legal officers, I have no objection to that.

The JOINT CHAIRMAN: Stand clause 99 and the proposed amendment.

Clause 99 and the proposed amendment stands.

Mr. DAVIDSON: I assure Mr. Lewis that we will show the same degree of flexibility and patience on this point that he has shown.

Mr. LEWIS: In relation to all other points.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 113.

On clause 113—*Exclusion of corporations from Part I of Industrial Relations and Disputes Investigation Act*.

The amendment reads:

That clause 113 of the said Bill be amended by striking out subclause (2) and substituting the following:

Idem.

(2) Where the Governor in Council excludes any corporation from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*, he shall, by order, add the name of that corporation to Part I or Part II of Schedule A.

Mr. LOVE: Mr. Chairman, this has already been discussed in connection with the earlier clauses dealing with transfers from the I.R.D.I. Act jurisdiction to the Public Service Staff Relations Act jurisdiction.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 113 carried.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 114 agreed to.

Mr. LEWIS: You just passed the essence of it in another clause.

The JOINT CHAIRMAN (*Mr. Richard*): Schedule A, Part I—carried.

On Schedule A—Part I

The schedule reads:

That Part I of Schedule A to the said Bill be amended by substituting for the expression "Royal Canadian Mounted Police (except the positions therein of members of the force)", the expression "Royal Canadian Mounted Police".

Mr. LEWIS: What is the inference of this?

Mr. LOVE: Mr. Chairman, we have already carried an amendment to the definition of employees which excludes the uniformed members of the force. This is a consequential amendment in the schedule.

Schedule A agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, at the present time, we have stood clauses 28, 39 (2) and 99, clause 1, of course, clause 28, 39 (2), 99 (1). Now, Mr. Lewis had indicated the other day that—this has nothing to do with this bill, but with the other bill, Bill No. C-181—we should consider clause 12.

Mr. LEWIS: Clause 12 of Bill No. C-181.

The JOINT CHAIRMAN (*Mr. Richard*): We must have leave of the committee to reopen clause 12.

Mr. LEWIS: Do you need a formal motion?

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed?

Some hon. MEMBERS: Agreed.

On Clause 12—*Selection standards*.

The JOINT CHAIRMAN (*Mr. Richard*): The amendment reads:

That section 12 of Bill C-181 be amended by adding thereto the following subsection:

(3) The Commission shall from time to time consult with representatives of any employee organization certified as a bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable.

Mr. Love and Mr. Carson are here today.

Mr. LEWIS: Have copies of this been distributed? I have mine. Mr. Carson was advised to rewrite the amendment I suggested the other day. It seems all right with me.

The JOINT CHAIRMAN (*Mr. Richard*): It seems all right?

Amendment agreed to.

Clause, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There is one more bill—

Mr. LEWIS: To change standards to principles, but that is O.K. with me.

The JOINT CHAIRMAN (*Mr. Richard*): Are we ready to go on with the Treasury bill? Tomorrow morning we will go on with the Treasury bill.

Mr. LEWIS: The Financial Administration Act?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: Mr. Chairman, with respect to Bill No. C-181, have we finished it all but for one clause and the political section?

The JOINT CHAIRMAN (*Mr. Richard*): This is right.

Mr. KNOWLES: Now, I was thinking of the other bill, 181.

The JOINT CHAIRMAN (*Mr. Richard*): Bill 181 is finished only for the political—

Mr. LEWIS: Clause 32 and clause 1.

Mr. KNOWLES: Can the clerk give us that?

The JOINT CHAIRMAN (*Mr. Richard*): And 34(1): Whichever other clause relates to political activity.

Mr. KNOWLES: There are just the two clauses, No. 1 and the political one.

The JOINT CHAIRMAN (*Mr. Richard*): That is right—34(1)(c) and 32.

Mr. KNOWLES: 34-1(c); it refers to section 32.

Mr. WALKER: What time tomorrow morning?

The JOINT CHAIRMAN (*Mr. Richard*): Nine thirty.

Mr. WALKER: The Financial Administration Act.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. LEWIS: This is just clearing up; 73, subclause 3 of clause 70, of 170 was stood, clause 70, subclause 3—

The JOINT CHAIRMAN (*Mr. Richard*): It was carried.

Mr. LEWIS: No, it was not, with great respect, it was stood until we were sure that the amendment to 12 of 181 would be acceptable.

The JOINT CHAIRMAN (*Mr. Richard*): When was this?

Mr. LEWIS: Last session.

Mr. KNOWLES: When you were here.

The JOINT CHAIRMAN (*Mr. Richard*): No, no, no, when we were on bill C-170?

Mr. LEWIS: Yes, last time, Tuesday.

The JOINT CHAIRMAN (*Mr. Richard*): Anyway my secretary tells me it was carried; in any event it is carried now. What I mean is, with your consent, but we had passed it.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 24

FRIDAY, DECEMBER 2, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, Mr. J. D. Love, Assistant Secretary
(Personnel), *Treasury Board*.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate
Senators

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Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Knowles,

Mr. Lachance,
Mr. Langlois (*Chicoutimi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Patterson,
Mr. Rochon,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

FRIDAY, December 2, 1966.

(42)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.49 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson (2).

Representing the House of Commons: Messrs. Chatterton, Éthier, Hymmen, Knowles, Langlois (*Chicoutimi*), Lewis, Patterson, Richard, Tardif, Walker (10).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The Committee studied Bill C-182 clause by clause as follows:

Clause 1, stand; Clause 2, carried; Sub-clause 3(1), stand; Sub-clauses 3(2) to (6) inclusive, carried; Sub-clause 3(7), stand; Sub-clauses 3(8) and 9, carried; Clause 4, carried; Clause 5, carried; Clause 6, carried; Clause 7, carried; Clause 8, carried; Clause 9, carried; Clause 10, carried.

Discussion on Clause 11 continuing, the meeting adjourned at 11.00 a.m. to 12.30 p.m. this same day.

AFTERNOON SITTING

(43)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 12.38 p.m. this day, the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senator Fergusson (1).

Representing the House of Commons: Messrs. Berger, Chatterton, Hymmen, Isabelle, Knowles, Lachance, Langlois (*Chicoutimi*), Richard, Rochon, Walker (10).

In attendance: (As for morning sitting).

The Committee continued the clause by clause study of Bill C-182 as follows:

Clause 11, 12 and 13, carried subject to further consideration; Clauses 14 to 18 inclusive, carried.

At 12.50 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

FRIDAY, December 2, 1966.

The JOINT CHAIRMAN (Mr. Richard): Gentlemen, I see we have a quorum. We have before us this morning Bill No. C-182, an act to amend the Financial Administration Act. This is a rather short bill and I hope that we can complete it this morning. I call clause 1. Have you any comments on clause 1?

On clause 1—*Responsibilities of Treasury Board.*

Dr. DAVIDSON: Clause 1, sir, is a replacement of Section 5(1) of the present Financial Administration Act, with a number of changes which are indicated in the underlined portions, for the most part. We have removed from old 5(1) the reference to Treasury Board having the responsibility for all matters relating to finance and revenues, because in the separation of the Treasury Board from the Finance Department, the reference to finance generally does not seem appropriate, that being at least in large part left as the responsibility of the Finance Department. The reference to revenues never has been appropriate really and we have therefore limited the reference to revenues in the new subheading (c) to revenues from the disposition of property. The other changes as underlined are I think self-evident. I might merely point out that what we are trying to do here is to bring the role of the Treasury Board in the financial and personnel management fields generally into line with the recommendations contained in the report of the Royal Commission on Government Organization. It is this that explains the new references to the fields of financial management and personnel management as well as the reference in subparagraph (d) to the review of annual and longer term expenditure plans and programs.

Mr. LEWIS: Before we do that, if I may, through you, Mr. Chairman, Dr. Davidson, just have a little thought—I do not know really how important it is—arising out of other references and other parts of the act. I think it would be of value from the point of view of the better understanding of the staff organizations if you added a power which I appreciate is contained in section 55 of the C-170. Would there be any harm in repeating it here, namely, that the Treasury Board has the power to enter into collective agreements. I appreciate that that is given you by the other act, but because this talks about your having the right to determine the terms and conditions of employment, and other things in other sections, it just occurred to me that a psychological difficulty could be overcome if there was a cross-reference in this section to the powers given you under C-170.

Dr. DAVIDSON: Probably under subheading (e).

Mr. LEWIS: That is right; you could add it.

Dr. DAVIDSON: I think if we are going to do it, it would be preferable to include it within that subheading rather than create a separate new subheading for it.

Mr. LEWIS: I would like to suggest that. I do not think it will do any violence to sort of logic in the act, and it would be a useful cross-reference.

Dr. DAVIDSON: Could I take that under advisement, Mr. Chairman, with a view to checking with the Department of Justice on the legal implications of it as distinct from the substantive merit of the proposal?

Mr. LEWIS: I venture to think, unless they are very sticky, and they are not, there would not be any legal implications if the cross-reference is clear. You do not make it a separate power but merely repeat in this act the power granted in the other act.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 1 carried subject to consideration of the addition of the clause as suggested by Mr. Lewis. Clause 1 agreed to subject to reservation mentioned.

On clause 2—*Regulations*.

Dr. DAVIDSON: Clause 2, Mr. Chairman, is the clause in which we provide the Treasury Board with authority to make regulations. Some of these regulations under subhead (c), (d) and (e) are precisely the same as are in the present Financial Administration Act, section 7. There are some new regulation making powers added in subheadings (a) and (b) which are designed again to pick up and carry forward as part of the role of the Treasury Board the recommendations of the Glassco Commission having to do with the responsibilities of the Treasury Board, as the central management agency of the government, to establish administrative standards and to monitor the performance of those standards, as well as to co-ordinate the functions and services with, in and between departments. You will notice, however, that we have made one important change in the leading words of this new section 6. If you compare with section 7, as it stands in fine print on the right hand page you will find that the reference "subject to any other act" appears in present clause 7 only with respect to subheads (c) and (e). We have thought it advisable in the new section 6 to bring that phrase forward to be the leading words of the new clause so that it will apply to all of these subheads (a), (b), (c), (d), and (e). This makes it clear that the power of the Treasury Board to make regulations under this new clause is subject to the provisions of any other act in so far as the powers given in that other act are concerned.

Mr. CHATTERTON: The first few words of Clause 1(2) read: "the Treasury Board is authorised"; does that mean authorised to pass regulations also?

Dr. DAVIDSON: I would say not, sir. It is authorized to exercise the powers of the Governor in Council but its regulation making powers are limited to those set up in 6.

Mr. CHATTERTON: Is not that ambiguous, when in (1) you say that Treasury Board is authorised to exercise the powers of the Governor in Council?

Dr. DAVIDSON: Can I take that under advisement, Mr. Chatterton, I am not clear on it now.

The JOINT CHAIRMAN (*Mr. Richard*): Where are we now?

Dr. DAVIDSON: This is going back to section 1, subclause 2.

Mr. CHATTERTON: To erase the question in my mind, really.

Dr. DAVIDSON: Yes. I think certainly it would depend considerably on what are the powers of the Governor in Council under these enactments.

Mr. CHATTERTON: Normally those powers include the making of regulations.

Dr. DAVIDSON: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Well, is there anything more to do on clause 1?

Dr. DAVIDSON: Well, I would have to check on this point that Mr. Chatterton raised as well as the point raised by Mr. Lewis.

The JOINT CHAIRMAN (*Mr. Richard*): That means that clause 1 stands.

Mr. CHATTERTON: Well, subject to checking on these two points.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. WALKER: Mr. Chairman, it might be better to stand the whole clause. Clause 1 stands.

Clause 2 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 3.

On clause 3—*Powers and functions of Treasury Board in relation to personnel management.*

Dr. DAVIDSON: Clause 3, Mr. Chairman, is the most important part of this amending legislation so far as its relationship to the other two bills that have been before the committee is concerned. The purpose of clause 3 is really to gather together and to vest in the Treasury Board as the employer in the public service, apart from separate employers, all of the authority that it is necessary for the employer to have in order to discharge his commitments in the personnel management field. The employer's commitments so far as the central administration in the public service is concerned will relate not only to the responsibilities that the employer assumes in collective bargaining; but it will also have to extend to the personnel management responsibilities of the employer in those areas of the public service that for one reason or another remain outside of the collective bargaining area.

It may very well be that there will be some occupational groups where some time will elapse before a bargaining unit is established. It is also true that for a certain limited number of the employees in the public service, no collective bargaining provisions will become applicable. Because of these facts, it is considered necessary to have the Treasury Board given these responsibilities—responsibilities which, as my staff has established, are now scattered throughout no less than 75 different enactments on the statute books. In order to ensure that these authorities and responsibilities are effectively vested in one authority so that we can discharge the responsibilities that are incumbent upon an employer in matters relating to collective bargaining—it is for this purpose that this new section 7 has been drafted in the way that it has.

Mr. LEWIS: I am still worried, as I read the various subsections, about the words, "notwithstanding any other provision contained in any enactment" and the absolute way in which it is stated that the Treasury Board has authority to do certain things which are necessarily part of collective bargaining.

Dr. DAVIDSON: Could I venture at this time, Mr. Chairman, to put forward for Mr. Lewis and the other members of the Committee the position taken by the authorities in the Department of Justice whom we have consulted specifically on this point. The Justice Department officers point to the fact that in the Public Service Staff Relations Act, section 55, states that the Treasury Board may enter into an agreement, and while we made some changes in the wording, that is basically what that section 55 still says. The Treasury Board may enter into a collective agreement. In order to ensure that the Treasury Board has the authority to implement the provisions of the collective agreement which that other law authorizes it to enter into, the provisions of section 7 are designed to vest the necessary authorities in the Treasury Board. Because of the fact that the present authorities to establish certain conditions of employment are scattered as widely as they are throughout the 75 pieces of legislation that I have referred to earlier it is necessary in the view of the Department of Justice to include here these words that are of concern to the members of the committee, as contained in line 42 on page 2 of this present bill: "notwithstanding any other provision contained in any enactment." Those words are designed to ensure that the authorities which are now written in to these various pieces of legislation, some vested in the Minister of Fisheries, some vested in other ministers of the crown, some vested in individual boards and commissions whose employees will now come within the central bargaining machinery, some vested in the Governor in Council—that all these authorities which are now scattered will henceforth be vested in the Treasury Board which is the agency that is going to be authorized under the other legislation to enter into collective agreements. What these words are designed to do is to confer the powers on the Treasury Board which it needs to have before it can effectively discharge the obligations which it incurs in entering into collective agreements under the other legislation.

Mr. LEWIS: In spite of that explanation, may I ask, Mr. Chairman, that Dr. Davidson look into the possibility of something like this being added. I am not being sticky; I just do not like a provision in one act that seems to give absolute authority; whereas some other act says you are going to discuss and bargain. Would it be possible to say something to the effect that the Treasury Board may in the exercise of its responsibilities in relation to personnel management in the public service and in relation to the provisions of the—what is C-170 called? I want to say C-170, you can put in the name to that, and without limiting the generality of, etc. do such and such. I appreciate the law officers may say it is not necessary; that C-170 gives you that authority, but nonetheless, I am still uneasy about the broad statement that the Treasury Board may in the exercise of its responsibilities do all the things that are then set out; and unless there is very great objection, I think it would clarify it, if you added, what I have suggested so that what you would be saying is that the Treasury Board may in the exercise of its responsibilities in relation to personnel management in the public service and in relation to its responsibilities under the Public Service Staff Relations Act, but without limiting the generality of sections 5 and 6—

Dr. DAVIDSON: Mr. Lewis, would you allow me to put this question to you? In the event that the wording which you have suggested in 5 (e) is included, personnel management in the public service is then defined in such a way as to embrace—

Mr. LEWIS: Right, I agree.

Dr. DAVIDSON: —the functions of entering into collective agreements and therefore if we so define personnel management and continue to use personnel management of the public service here, it seems to me that it embraces what is contained in 5 (e).

Mr. LEWIS: Right. If you put it in 5(e) I think it would not be necessary here.

Mr. CHATTERTON: I am confused. It was my impression from the Public Service Employment Act that the commission itself will be in effect performing a management function.

Dr. DAVIDSON: I think the answer is no, Mr. Chatterton, if I may say so. It will perform what we call the staffing function, all of the staffing actions that are related to selection, appointment, promotions, transfers, and so forth, which have to do with the safeguarding of the merit system, so that there will be no untoward influence on the operation of the merit system. But the responsibility for personnel management, as distinct from the selection process and the staffing function generally will be vested in the Treasury Board and/or the department.

Mr. CHATTERTON: Would not, for instance, training be more or less part and parcel of this staffing function that you refer to?

Dr. DAVIDSON: I draw your attention Mr. Chatterton, to the five words on page 3(b). It is significant I think, the way we have it worded, that it is the role of the Treasury Board to determine the requirements for the training and to fix the terms under which such training may be carried out, but the significance of those words is that the Treasury Board will not itself or need not itself carry out the training program. In fact it is the intention to continue to have the Civil Service Commission, in broad general areas, and the departments themselves in specific departmental areas carry out the training program. You might say that the Treasury Board is responsible for ensuring that adequate statements of requirements are made; that the training needs are made known; by arrangement with the commission the latter will be acting as the agencies selected to set up the training program, and carry them through.

Mr. CHATTERTON: The commission or the deputy heads?

Dr. DAVIDSON: The deputy heads of departments in situations where the training requirement is limited to one particular group of employees in a given department, but where you have a general need throughout the service, it is more likely that the Civil Service Commission would be setting up those training programs.

Mr. CHATTERTON: Well, in paragraph 3(2), it says that Treasury Board may authorise the deputy head of a department to exercise any of its functions. It does not authorize the commission.

Dr. DAVIDSON: Well, could I repeat that 3(b) does not give the Treasury Board the authority to operate training programs.

Mr. CHATTERTON: Does the commission have the right to operate training programs?

Dr. DAVIDSON: Yes. That is written into the bill 181. But this is really to prescribe the requirements, to ascertain the requirements and then to fix the terms under which they would be carried out.

Mr. CHATTERTON: Would that not be more properly the function of the commission, since it is so closely connected with staffing, to set the training requirements?

Dr. DAVIDSON: It is the responsibility of management, it seems to me, to ensure that the work force that management is maintaining is adequately equipped to carry out the job. It can determine the requirement for training. It then calls upon the Civil Service Commission as the agency that is set up and equipped to carry out the training function, but the prescription of training needs, the kinds of shortages we have and the training requirements to update skills for example, and to prepare people for the jobs that they are taking in the public service—this prescription as distinct from the carrying out of the training program, is surely the function of management.

Mr. CHATTERTON: The commission now, which actually makes the appointments, the staffing, is most closely associated with the whole problem of staff, staffing, appointment promotions, and so.

Mr. LOVE: Not only staffing but requirements as expressed by the treasury Board. I think, Mr. Chairman, one can draw a parallel to the distinction between determining manpower requirements. In other words, the board has traditionally had the responsibility for determining the departmental establishments, in determining how many people are needed in what types of occupations and so on, and the commission has the responsibility then for meeting the requirements, and I think the same thing may be said of the training field. The board would have the responsibility for determining the requirement, but then the commission to the extent that the requirement calls for a centralized training program, the commission would have the responsibility for meeting that requirement. I think one can draw a parallel between these two areas.

Mr. CHATTERTON: Would the Treasury Board also authorise the deputy heads to determine the establishment?

Dr. DAVIDSON: No; within the manpower budget, the deputy head could be given under this provision for delegation, that we come to in a moment, a considerable measure of responsibility for varying and altering the structure of his establishment. It would not be the intention certainly, for the Treasury Board to delegate unreservedly to the department the entire determination of its own establishment.

Mr. CHATTERTON: The Treasury Board can authorize almost completely the deputy head to determine the standard of training, the requirements of training.

Dr. DAVIDSON: Yes, unless the Treasury Board had reason to feel from the monitoring function which it is required to carry out under 6(b) on page 2 that it should not do so, or unless it were concerned as to the inadequacy of the performance of a given department in a certain field. In that event, I think the Treasury Board might well have something to say as to the needs of the

department, even if the department itself did not recognise the need to set up a training program and to update the performance capacity of its personnel.

Mr. LOVE: Particularly if it is a national training program for a certain class of employee.

Dr. DAVIDSON: I think that is much easier to recognize, because clearly if there is a shortage as, for example, there may well be, of cost accountants within the government service or personnel officers within the government service—if there is a service-wide shortage that we are trying to meet, it is relatively easy to see the central management agency coming to that conclusion, determining the requirements and then requesting the Civil Service Commission, which obviously would be the only agency that you could conceive of it asking, to develop a training program that will meet the supply requirement.

Mr. CHATTERTON: That I think is the answer I have been looking for because rather than authorize the deputy head to establish the training requirements, the Treasury Board may lay down certain conditions or set general standards.

Dr. DAVIDSON: Vis-à-vis the departmental situation, Mr. Chatterton, two situations could arise. In one case the department itself may have an isolated requirement related to the functions of that department and that department alone. Let us take lighthouse keepers as an example. The Department of Transport would be the only department that would be concerned with the supply and the qualifications of lighthouse keepers, or meteorological communicators or air traffic controllers. The department, recognizing a need, could undertake as part of its departmental responsibilities that training requirement. The Treasury Board if it saw a situation—

Mr. CHATTERTON: The actual training would be carried out by the commission, the actual operational training program.

Dr. DAVIDSON: Not necessarily, the department could be authorized and is now very frequently authorized, to bring in outside experts to provide training in a special field. The commission's role is essentially the common service role in the training field, where there is a training need that extends beyond the boundaries of one department. But where there is an isolated need, the department itself is usually given the responsibility for setting up the training arrangements and meeting that training requirement.

Mr. HYMMEN: One question regarding sub-paragraph (g). The reason I ask this is that several members of this Committee have been sitting on another committee currently considering Bill No. S-35 which is another bill providing safety in the public service. Now I see that subparagraph (g) clause says "establish and provide for the application of standards", and I know that Bill No. S-35 has a clause "notwithstanding any other act," and I do not think there is a particular problem. I assume that this will complement what the government is trying to provide in the other bill.

Dr. DAVIDSON: The wordings of these two provisions, Mr. Chairman, have been closely co-ordinated between ourselves and Department of Labour. I might just mention that the relationship here is exactly the same as the relationship in respect of the earlier Canada Labour Standards Code. The government, while not coming under that legislation with respect to its own employees, has made a public announcement that it will be its policy to apply in the public service the

standards that are set out in the Canada Labour Standards Code for private industries coming under federal jurisdiction. In the same manner here, it is intended, and it either has been so stated or will be so stated, that the government in terms of policy will conform under this provision here to the requirements that are set out in the Labour Standards Safety Code for industries coming under federal jurisdiction.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 3—Carried?

Mr. LEWIS: No, we do not.

The JOINT CHAIRMAN (*Mr. Richard*): Pardon me.

Mr. LEWIS: No, I wish to say something on (7) on page 4, Mr. Chairman. Unless I am mistaken, this provision giving the Governor in Council the right in the interests of the safety or security of Canada, and so forth, to suspend or dismiss any person employed in the public service is the equivalent of section 50 in the old Civil Service Act, was it 50? I think it was 50, and was the section you will remember, Mr. Chairman, which was involved in the unhappy Victor Spencer case. I objected and Mr. Douglas and I both spoke on a number of occasions to the fact that this authority in the Governor in Council is absolute and that the person affected by the suspension or dismissal has no right of a hearing by any independent body.

The JOINT CHAIRMAN (*Mr. Richard*): Did not we have a similar discussion on another bill?

Mr. LEWIS: No, I do not think it is in 170, is it?

Dr. DAVIDSON: There is a corresponding provision in 170, namely section 112, it is not precisely the same.

Mr. LEWIS: Well, I must have skipped it.

Dr. DAVIDSON: It does not relate to the question of discharge.

Mr. LEWIS: As I was saying, this is the equivalent of section 50 of the old Civil Service Act, and is subject to the same objection, namely the fact that a person suspended or dismissed under this section, a person employed in the public service, suspended or dismissed under this section, has no right of a hearing in his defence before some independent body.

Now, Mr. Chairman, it seems to me clear that in practice and in logic you would have two sets of circumstances: you would have one set of circumstances where the person concerned was charged and brought to trial. In that case he of course has his hearing in court. Another set of circumstances, which was exemplified by the Victor Spencer case, is a situation where the person affected is not brought to trial, for whatever reason. I am not questioning the common sense of that, but because he is not brought to trial, he really has no hearing at all in his defence. Therefore, Mr. Chairman, I would like to suggest, unless someone can persuade me that this is in some way dangerous to the state, and I cannot see it, that there be added to this section, and I am deliberately not moving it, because I think it would require careful drafting by people much more experienced in drafting than I can claim to be, that we make a comma at the end of the present section and add to it words something to this effect:

Subject to the right of such person to be heard in his defence before a special commissioner appointed by the Governor in Council, and the

commissioner may hold such hearings in camera and receive such evidence in such manner as he in his absolute discretion decides.

Now, I have drafted it, or I have drafted my suggestion in such a way that it seems to me it cannot possibly be objectionable in principle. I am not asking that the person who is being suspended or dismissed for security reasons have a public hearing which is obviously impossible. I am not asking that he necessarily be confronted with his accusers, which may be impossible; but what I am asking is that he have the right to demand that the Governor in Council then appoint a special commissioner; that the commissioner then has complete authority to deal with the matter as he sees fit, to hold his hearings in camera, to receive any evidence he desires in such a way as he desires.

Now, Mr. Chairman, I gave this example on the floor of the house. Forgive me if I take a minute to repeat it, because it is an actual experience that helps in these situations. Some years ago an employee of the Canadian Broadcasting Corporation was refused promotion. He exercised his rights under the collective agreement that governed him to file a grievance. I represented his union and him in that case. We came before a board of arbitration. The board of arbitration said, we cannot tell you the reason why he is not being promoted, or rather the C.B.C. said to the board of arbitration, we cannot tell you reason why he was not promoted because it is in the field of security. After some steps, the details of which are irrelevant, we persuaded the then Minister of Justice, the chairman of the arbitration board and I saw him, persuaded the then Minister of Justice to appoint a special commissioner by a special order in council. Mr. Fulton was the minister. He did so. He appointed Dean Curtis of the Law School of University of British Columbia. Dean Curtis had a hearing, he heard the person accused of being a security risk, separately; he listened to evidence on the other side, I imagine the R.C.M.P. and other certain people, I cannot tell you who, I was not there. I was there with the person affected. He did not tell us what evidence he obtained from the other side, but he obviously based his questions to us on what he had learned from the other side. As a result, he issued a report completely clearing this person, and the person received his promotion.

The situation was the usual rather silly situation that, if I may say so without insulting a very useful police force, the R.C.M.P. gets itself into in political matters. This young man had written some articles in the *Cartier Latin*, the paper at the University of Montreal, when he was an undergraduate, which the R.C.M.P. thought smacked of something or other, and that damned him for life.

These things happen in this imperfect world, and they can happen in the public service as well as in the C.B.C. and they will not happen often. I do not imagine there will be many suspensions or dismissals without a charge which is taken to court, I imagine it will occur very infrequently, but when it occurs, it is contrary to every sense of justice, in our system of rights of individuals, that he should not have his day in some court. I, therefore, make the suggestion, that Dr. Davidson undertake to look into it—I will give him what I have scribbled—and bring back a report. I will not move anything today because I think it would not be very helpful; but if he objects to the suggestion, which of course he has a right to do, then I will try to draft an amendment.

Mr. TARDIF: Mr. Chairman, I am not too impressed, actually, by the reasons brought out by Mr. Lewis in cases like this because he absolutely destroys his own argument in most cases by saying that this can be a very rare case.

Mr. LEWIS: How does that destroy the argument?

Mr. TARDIF: I did not interrupt you, Mr. Lewis, and I would thank you not to interrupt me.

Mr. LEWIS: You are in a cantankerous mood, this morning.

Mr. TARDIF: It is my usual mood.

Mr. LEWIS: It is your usual mood?

Mr. TARDIF: That is right.

Mr. LEWIS: All right. I will learn to know you and ignore it.

Mr. TARDIF: That is right. If you do, I will appreciate it.

Mr. Lewis destroys his own argument by saying that these cases are very rare. I have no objection to the individual being protected; I think that every Canadian citizen wants the individual to be protected, but I think the state is entitled to a certain amount of protection, too, because the state is the remainder of the population of Canada, except for this one individual. I do not think we should do him any injustices but if, to convince me that this needs to be added to that clause you talk about the Spencer case which cost the country a great deal of money and which ended up by finding out that this man was guilty of treason and to prove he was guilty of treason, after his death he left his money to a communistic organization, then if that is what is going to convince me that we need to put in additional protection to help somebody who may be guilty of treason which may expose Canada to a lot of problems, then this does not impress me very much nor does it convince me.

I do not think that anybody who is under the cloud of suspicion of being guilty of treason is not given his day in court; and I think that before the Spencer case there was quite a sufficient amount of evidence to convince anybody in Canada that this man had been guilty of selling secrets, even if they were not important secrets, to other countries that may, at some time, become our enemies even if they are not our enemies now. I think the additional political kudos that might have been obtained by somebody insisting that Canada give Spencer a complete investigation after an investigation had already been made, certainly did not serve the country well.

I think this clause covers everything. I do not think that any Canadian organization wants to condemn or accuse anybody of anything that might be considered as treason without giving them their day in court. I think in the case of Spencer, the investigation had been made before and it had been proven, and the additional costs that the country incurred in giving him a second trial and making this a public affair, just merely added to the cost of the taxpayers and came to exactly the same conclusion as had been arrived at by private investigation earlier.

Mr. CHATTERTON: Mr. Chairman, it seems to me that it would be the government of all people who would welcome a provision such as this. It would take it right off the hook. I would say that if there had been such a provision in the previous Civil Service Act, the Spencer case would never have arisen, and

apart from the rights to the employees, I think it should be the government who would welcome a suggestion such as Mr. Lewis has made.

Mr. LEWIS: I do not think Mr. Tardif's remarks should go without comment. I say to him that his cantankerousness goes beyond being merely ill tempered. To put a price—the question of cost—on the matter of the pretty important principle involved is to me a shocking thing, and to say that because this thing may happen very rarely, therefore, the occasional individual affected is of no importance is equally shocking. Let me tell Mr. Tardif, Mr. Chairman, through you, that his sitting in judgment on Mr. Spencer now in the extreme way in which he has done, is also to me rather unlimited liberty. I objected, personally and publicly to Mr. Justice Wells, for whom I have the greatest possible respect as a jurist and as a person whom I have the pleasure of knowing, continuing the investigation once Mr. Spencer was dead. The fact is that the unfortunate death of Mr. Spencer resulted in an investigation without the man affected being able to produce his evidence. But it is utterly irrelevant as to whether or not the special commissioner would, in fact, find that the action of the Treasury Board or the Governor in Council was justified. I would expect that that would be the case in 75 per cent of the cases. I would have much less respect of and confidence in the authorities in Canada if I thought that every time their judgment would be upset. I would assume that a thorough investigation would be made. I would assume that officers in various departments of government and the Governor in Council himself would not act without what they consider to be very valid grounds. I am not suggesting that anybody is going to make accusations idly because that is not the point. The fact, in our administration of justice, Mr. Chairman, is that even if there is not the slightest doubt in the world that a person has committed a crime, even if every one of us sees Mr. Tardif commit murder, of which I am sure he is incapable, even if everyone in this room saw him commit murder he would still be entitled to go into court to be charged, to have his rights, to be represented by counsel, to plead not guilty if that was his decision, to be heard before a jury of his peers if he has any peers, and a decision given under those circumstances. What he argued was that all of this should be wiped out in the case of a person who is being disciplined, suspended or dismissed, because of an accusation relating to safety or security.

Mr. TARDIF: That is not what I said at all.

Mr. LEWIS: This is exactly what you said.

Mr. TARDIF: It is not exactly what I said.

Mr. LEWIS: Let me finish.

Mr. TARDIF: Just a moment; this is on a point of order. You have quoted me as having said something that I have not said.

Mr. LEWIS: I did not quote you.

Mr. TARDIF: I wish to advise the honourable member that he does not have to worry about my having peers, because that is something that can be proven, too. This is not what I said.

I said when a man is fired, let us say, because he has had some activities that impeaches the security of the country—and I am sure this is never done without an investigation—and he has been found guilty of that, there is no necessity, for political purposes or political kudos, to make the number of representations that

you made, for instance, in connection with Spencer just to prove the man was guilty of what he had been accused of. Not only that, you say that they continued the investigation after the man was dead. After the man was dead his will convinced the people of Canada that he was guilty of what he had been accused.

Mr. LEWIS: It convinced the people of Canada of whatever my friend wants to convince them, and I object most strenuously to this cheap remark of Mr. Tardif's about political kudos and political advantage. Let me tell him that I am not even going to try to compete with him in that sphere in which I am sure he is a master.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Let us get back on the track.

Mr. LEWIS: I am getting back on the track.

The JOINT CHAIRMAN (*Mr. Richard*): I quite appreciate there is an argument to be made on subclause 7 whether it should be enlarged to provide certain limited rights by the appointment of a commissioner. I hope you do not mind my interrupting because I have only nice things to say.

Mr. LEWIS: That is no reason for an interruption but go ahead.

The JOINT CHAIRMAN (*Mr. Richard*): At this time there is a royal commission on security investigating this very point and I am sure there will be some strong recommendations. I just want to suggest that we will not settle very much this morning unless we stand subclause 7 and let Dr. Davidson consult the authorities who are able to guide him on the acceptance of any amendment that may apply.

Mr. LEWIS: Nevertheless, I want to complete the point I was going to make. It is precisely because I have as much concern as a citizen of Canada, not any more but just as much concern as anyone about the safety and security of the state, that my suggestion was worded in the way it was worded. If members of the Committee had listened to it as Mr. Chatterton so kindly did, they would have noticed that the protection for the security and safety of the state is contained in my suggestion. There is no suggestion that the security or safety of the state be affected in any way because I emphasized that the Commissioner may hold his hearings in camera and he may receive his evidence in any way he likes, taking into account the security and safety of the state. That is precisely why my suggestion was worded in that way.

Since you referred to it, Mr. Chairman, let me say just one word about the commission which has been set up to investigate security procedures. I appreciate that and I am, of course, aware of that. I do not know how long that commission will take. I suggest to you that if the commission comes down with recommendations that affect this particular provision, including the amendment I suggest, the necessary changes can be made in this law as they will, undoubtedly, be made in all other laws that will be affected by the recommendations of the security commission.

Therefore, I would very strongly urge that the appointment of that commission is no reason for not providing in this act the kind of hearing delimited, and if the officers of the crown have some stronger language to protect the security and safety of the state for the amendment I suggested, there will not be any quarrel about that. I do not think we should delay doing this. I would urge that the amendment I have suggested be considered. If not, I will move it.

Is Dr. Davidson prepared to take it to the law officers and give it consideration?

Dr. DAVIDSON: Mr. Chairman, I would be very glad to have a copy of the text which Mr. Lewis read because I was not able to copy it down completely. I would like to say, as I am sure he will appreciate, that this matter is of sufficient importance as a high question of principle that it will not be a question of my studying it and saying whether or not I have any objection to it, nor will it be a question of my taking it to a law officer of the crown to see if the wording corresponds to what they think might be technically required in the circumstances; this is a matter on which only the government can speak as to whether it is prepared to agree to the inclusion of a provision of this kind in the law. I will undertake to get my instructions and to indicate at the appropriate time to the Committee what the position is.

The only other thing I would say by way of reminding the Committee of the position is that this bill was drafted in its present form and presented to parliament on the 12th day of May, 1966, at a time when the date on which the Royal Commission on Security would be appointed and the program of study that it would have to carry out was still in the future. Therefore, this clause which we are now discussing should not be taken as being the position that the government is taking as a matter of permanent, continuing policy. This was merely a reminder to parliament, if you like, and to members of parliament, that some provision of this kind was in the judgment of the government necessary, that there was a royal commission looming up in the future that was going to study this whole question and that in due course, presumably, the royal commission would make its report and at that time it would be hoped that a permanent arrangement for the conduct of these difficult procedures could be mapped out that would meet with the general approval of parliament. With that, as a statement of the circumstances under which this provision found its way into the bill, I would merely repeat that I will be glad to get direction on this with respect to the informal suggestion Mr. Lewis has advanced for consideration and to report back to the Committee later.

Senator FERGUSON: I am quite impressed with Mr. Lewis' argument. I think it is very reasonable. I am not at all impressed by the argument that this might affect only a few people. I do not think in Canada it is our policy to override the rights of individuals, and if it only affects one person I think that is a reason it should be inserted in the act.

Mr. LEWIS: Hear, hear.

Senator FERGUSON: I just want to say, before we have it referred, that I am very much in favour of Mr. Lewis' suggested amendment being included if the proper wording can be worked out by the law officers. If not, if Mr. Lewis brings in such an amendment, I certainly would support it.

Mr. TARDIF: Mr. Chairman, just in case what I said was misconstrued, I did not say that I was in favour of the rights of individuals being superseded by anything. I said that after an investigation already has been made that I do not believe, in the case where any employees of the public service are fired for taking some action that might endanger the security of the country, that it is necessary to give them two or three trials. I am sure that nobody is either fired or relieved of his duties without, first of all, having had some kind of an

investigation to find out whether he was right or not. In the Spencer case there had been a police investigation and a complete report made about that, so the necessity of giving the man a second trial is more than I can see, after he has been found guilty.

Mr. PATTERSON: Mr. Chairman, there is only one thing that I would like to express this morning in connection with this suggestion. I am not at the moment taking objection to the suggestion that was made by Mr. Lewis, but it seems to me that in a case of possibly a very minor infraction or misdemeanor that the government would be almost obligated to throw the book at that person, no matter what the consequences; but if they were allowed some discretion, they could just ease the person out and it would not prejudice his position or the possibility of his securing employment elsewhere. Now, that is just an idea that came to me and I think possibly it might have some merit. Otherwise, if you immediately get him into court and there is an investigation and so on, then it pretty well brands the person no matter how minor the misdemeanor may be.

Dr. DAVIDSON: Mr. Chairman, before the discussion proceeds to the next point could I just complete the record by pointing out, as I did on a previous occasion, that while this does correspond, as Mr. Lewis has indicated, to Section 50 of the Civil Service Act as it now stands, it corresponds in a much more restricted and limited fashion. It is well to remind the Committee that Section 50 in its present form places no restriction on the Governor in Council to dismiss, for any reason whatsoever and without stating any reason. This is a very significant restriction even in its present form in that the clause as now drafted provides that nothing in this act shall affect the right or the power of the Governor in Council to dismiss in the interest of the safety or security of Canada or any state allied thereto. I think this is a significant restriction, even in its present form.

Mr. LEWIS: Not really Dr. Davidson, with respect to significant as you make it. It is very significant in terms of the language but everyone in the House of Commons at the time of the discussions on the Spencer case emphasized the fact that even the previous broad wording was intended to be limited to security and safety of the state and was never intended to be used, and never was used, in any other context. I am not disagreeing with Dr. Davidson but the present wording makes that explicit and to that extent it certainly is more acceptable. But, in practice, the change is not significant because the Prime Minister, the Rt. Hon. Leader of the Opposition, who I think was in power when Section 50 was put in in 1961, and everyone agreed that it was intended to be limited to the security and safety of the state.

Dr. DAVIDSON: I would still suggest to the Committee that the principle that is reflected in this change, quite apart from the practice, is important. It is one thing as a matter of principle to give the Governor in Council power to dismiss absolutely and for any reason, or without any reason at all, under any circumstances, as the law now does. It is quite another matter of principle to state in the law that this power can only be used where the safety and the security of the state is at stake. Even though the practice may not change one iota, I suggest, with respect, the principle has changed in a very important and material regard.

The JOINT CHAIRMAN (Mr. Richard): Clause 3, Sections 7(1) and 7(7) stands.

Mr. LEWIS: We passed clause 3 except for subsection 7?

The JOINT CHAIRMAN (*Mr. Richard*): That is correct.

On clause 4—*Management*.

Dr. DAVIDSON: Mr. Chairman, with clause 4 we come to a miscellaneous array of clauses, all of which have as their purpose the purely technical objective of separating out the functions which seem to be appropriate for the Treasury Board or the President of the Treasury Board rather than for the Minister of Finance now that these two departments and Ministers have become separated under the Government Organization Act. Because of the fact that since Confederation the Minister of Finance was always the chairman of the Treasury Board, the present Financial Administration Act never found it necessary to give precision to those duties and responsibilities set out in the Financial Administration Act which were the responsibilities of the Minister of Finance *qua* Minister of Finance and those which were his responsibilities *qua* the Chairman of the Treasury Board. With the separation of these two ministries we now have to decide which of those detailed duties and responsibilities that are lumped together as the responsibilities of the Minister under the present legislation, have to be separated out and vested in the President of the Treasury Board or in the Treasury Board. The line that we have followed generally in making this distinction is that what you might call the detailed housekeeping responsibilities in terms of expenditure control, expenditure policy in budgeting and estimates and so on, become the responsibility of the Treasury Board and of the President of the Treasury Board; whereas what you might call the economic policy, the fiscal and other responsibilities that are part and parcel of the total package of responsibility the Department of Finance has carried up to the present time remain with the Minister of Finance. We are, therefore, defining the responsibility of the Minister of Finance in clause 4 by stating that he has:

—the management and direction of the Department of Finance, the management of the Consolidated Revenue Fund and the supervision, control and direction of all matters relating to the financial affairs of Canada not by law assigned to *the Treasury Board or to any other Minister*.

Mr. LEWIS: What you have added is "Treasury Board".

Dr. DAVIDSON: That is all.

Clause 4 agreed to.

Clauses 5 to 10 inclusive, agreed to.

On Clause 11—*Inquiry and report*.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, would you refer to a letter which Mr. Hales wrote on October 17 to Senator Bourget and myself with reference to clauses 11, 12 and 13?

Dr. DAVIDSON: Yes, sir.

The JOINT CHAIRMAN (*Mr. Richard*): As a matter of fact Mr. Hales is not in town. I had written him. You are aware of his representations because that was placed on the record at page 598 of the Minutes of Proceedings and Evidence.

Mr. LEWIS: Perhaps Dr. Davidson could remind us of its content.

Dr. DAVIDSON: Mr. Chairman, I believe the letter is on the record from Mr. Hales to Senator Bourget; it relates to clauses 11, 12 and 13 with which we are now concerned. The letter expresses Mr. Hales' concern as to the effect of the changes proposed here in these three clauses on the position of the Auditor General. Mr. Chairman, I think it might be wise to use the actual words by quoting from Mr. Hales' letter because I would not wish to risk interpreting him wrongly in this connection.

OCTOBER 17, 1966.

Dear Mr. Bourget:

I understand that the Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service of Canada is about to consider in detail Bill C-182, an Act to amend the Financial Administration Act. I am writing to you, as Chairman of the Public Accounts Committee, to advise you of my serious concern about the provisions of Sections 11, 12 and 13 of the Bill, each of which affects the Office of the Auditor General.

I believe it to be fundamental that for effective Parliamentary control of public funds, it is absolutely essential that the integrity and independence of the Office of the Auditor General be zealously guarded. It is my view, and I am sure it is yours as well, that nothing must be permitted to exist which would have the effect of subjecting or appearing to subject the Auditor General to the direction or control of the Executive. He is the servant of Parliament.

In accordance with tradition and the law, all reports of the Auditor General, whether to Parliament, the Governor in Council or the Treasury Board, are made through the Minister of Finance. The Minister of Finance is the link between the Auditor General and those to whom his reports are required to be made. By reason of the provisions of Sections 11, 12 and 13 of Bill C-182, however, this link would be severed and the Auditor General would be brought into a direct relationship with the Governor in Council and the Treasury Board. Further, the right of the Minister of Finance to request information from the Auditor General is removed. This I consider is to be an encroachment on the independence of the Auditor General.

It is my understanding that one of the prime purposes of Bill C-182 is to consolidate in the Treasury Board the detail of expenditure of the public revenues authorized by Parliament. One of the prime functions of the Auditor General is to ascertain whether expenditure of the public revenues authorized by Parliament has been applied to the purposes for which it has been so authorized. The effect of Sections 11, 12 and 13 of Bill C-182 is to require the Auditor General to report directly to those responsible for the acts into which it is the Auditor General's duty to inquire. The anomalous nature of such a situation is obvious. Indeed, such a situation defeats the very purpose for which the Office of the Auditor General exists.

Accordingly, I strongly urge that Sections 11, 12 and 13 of Bill C-182 be deleted and the relevant provisions of the Financial Administration Act be continued.

Yours sincerely,
Alfred D. Hales, M.P.
Chairman,
Public Accounts Committee.

Mr. Chairman, in the light of this matter we have re-examined the proposals contained in clauses 11, 12 and 13 of this bill. I confess that I have not been able to confirm the view expressed in Mr. Hales' letter that this undermines, as he has suggested, the position of the Auditor General in any way whatsoever. I note that the statement is made that "it is absolutely essential that the integrity and independence of the Auditor General be zealously guarded." I have examined these three clauses to see, if I could, the extent which it might be properly considered that the changes did affect the position of the Auditor General in any way.

Let us look at clause 11, for example. The new section 71 replaces the old section 71, which is set out in fine print on the right hand side of the page. Section 71 in its present form provides that the Auditor General must at the direction of either the Governor in Council, the Treasury Board or the Minister of Finance report on any matter relating to the financial affairs of Canada or to public property and so on, as set out there. What has happened is that our amending provision has reduced by one the persons for whom the Auditor General must accept direction in this regard. I must say, with respect, that this change does not impress me as being an encroachment upon the rights and independence of the Auditor General to have the authorities from whom he must accept direction in this matter reduced rather than extended.

Mr. LEWIS: Dr. Davidson, it seems to me that the real difference—and I would suggest, perhaps, you might direct your discussion to that—between what you proposed and what Mr. Hales is talking about in his letter is his conviction that the Minister of Finance must be there; that he is the link between expenditures and so on. I am not saying that I necessarily agree with that. I really do not have enough experience to have a view. It seems to be clear from Mr. Hales' letter that his fears derive from the fact that the role of the Minister of Finance has been removed and it is his opinion that the Minister of Finance is necessary in order to achieve the purposes for which the Auditor General is appointed. Is that not basically the difference, because the only thing you have done in all of these amendments is to remove the Minister of Finance.

Dr. DAVIDSON: The simple reason we have removed the Minister of Finance is that the responsibility for the monitoring of the expenditure program of the government has been shifted to another Minister and to the Treasury Board as a committee of the Queen's Privy Council. It did not therefore seem to us reasonable to have the Minister of Finance, who continues to be *ex officio* a member of the Treasury Board, continue to carry the line of communication,—a responsibility which he has previously carried,—now that the line of communication and the responsibility is to be channelled through another minister and through the Board as such. Perhaps that could shortcut the explanations I was

going to give on a detailed basis on these three provisions. They all hang together in that sense.

Mr. CHATTERTON: In your proposed Section 71 have you included the President of the Treasury Board. Perhaps that would place it in exactly the same position as before.

Dr. DAVIDSON: No, sir. I think, if I may say so, my interpretation of Mr. Hales' letter is that that would add to his objections. We have deliberately left any reference to an individual minister out of Section 71 and it is now only possible for direction to be given to the Auditor General, who is a servant of Parliament, under this section when the Governor in Council or the Treasury Board as a whole decides that the situation warrants giving a direction to the Auditor General to investigate a certain matter.

Mr. LEWIS: The Treasury Board invariably includes the Minister of Finance.

Dr. DAVIDSON: The Treasury Board by law must include the Minister of Finance.

Mr. TARDIF: Mr. Chairman, is that letter based on the fact that Mr. Hales is worried that the Auditor General may be influenced. The Auditor General is a man of great integrity and I do not think he would be influenced.

The JOINT CHAIRMAN (*Mr. Richard*): Is the Committee satisfied with the explanation of clauses 11, 12 and 13?

Mr. CHATTERTON: Mr. Chairman, the only reason that I can see for Mr. Hales' letter is the removal of the right of the minister to refer the matter to the Auditor General. What is the objection then to including not only the Governor in Council and the Treasury Board but also the President of the Treasury Board? By taking away the minister and not substituting the President of the Treasury Board, you are, in effect, diminishing the chances of the matter being referred to the Auditor General.

Mr. DAVIDSON: Well, sir, that may be an argument but it certainly does not seem to be the argument, Mr. Hales is using.

Mr. CHATTERTON: The only difference between the old section and the new one is the deletion of the minister. I do not know if Mr. Hales was aware of that but that is the way it appears to me. What is the objection to including the right to the President of the Treasury Board, in himself, as it previously was in the case of the minister to refer the matter to the Auditor General?

Dr. DAVIDSON: Sir, that is a matter of judgment but I think I could argue that the Auditor General, as a servant of Parliament, should not be subject to the direction of an individual minister. If this had been the argument that had been advanced I could have understood the force of that argument. I myself would be reluctant to go so far as to say that the Auditor General should be required to carry out an investigation at the direction of the President of the Treasury Board, even if it were only a replacement of the present reference to the Minister of Finance.

Mr. CHATTERTON: The direction is merely that he should investigate, is it not?

Dr. DAVIDSON: That is correct, and of course he can doing that anyway.

Mr. CHATTERTON: Can he do that without the direction of the Governor in Council and the Treasury Board?

Dr. DAVIDSON: Yes.

Mr. WALKER: Mr. Chairman, I do not see that clauses, 11, 12 and 13 take away any of the present powers of the Auditor General.

Mr. CHATTERTON: May I just ask under what authority the Auditor General investigates, in any case?

Dr. DAVIDSON: Under the authority accorded to the Auditor General in the Financial Administration Act, as it now stands.

Mr. CHATTERTON: I see.

Clause 11 agreed to.

Clauses 12 and 13 agreed to.

Mr. LEWIS: I think we should be in the house at this time. We could return for a half an hour this afternoon.

The JOINT CHAIRMAN (*Mr. Richard*): We could return this afternoon.

Mr. LEWIS: I would be prepared to return after Orders of the Day.

The JOINT CHAIRMAN (*Mr. Richard*): What about this morning after Orders of the Day?

Mr. LEWIS: All right. Shall we return at 12.30?

The JOINT CHAIRMAN (*Mr. Richard*): A half an hour should finish this bill.

Mr. LEWIS: A half an hour will finish it.

The JOINT CHAIRMAN (*Mr. Richard*): We shall return at 12.30 p.m. to finish this bill.

AFTERNOON SITTING

The JOINT CHAIRMAN (*Mr. Richard*): We were on clauses 11, 12 and 13. Although discussion had been completed, I think Mr. Hales should be invited to state his own views at the next meeting of this Committee. It may only be a short discussion, but I think we should give him that privilege.

Mr. WALKER: Mr. Chairman, I do not want to interfere with any arrangements you may or may not have made but there are members of the Committee who have expressed their viewpoint already who may not be here when Mr. Hales comes. It is like running out of butter and bread; you never get them together. We have Mr. Hales' representations in the letter. Those members who heard the letter appeared to be satisfied with the passing of clauses 11, 12 and 13. If there are any of the members here who feel that enough consideration was not given to Mr. Hales' letter, that is another thing. The point I am making is that there are members here who have taken it into consideration who may not be here when Mr. Hales comes.

Mr. CHATTERTON: I am satisfied that the only difference between the old section and the new one is the removal of one person. Furthermore, Dr. Davidson

explained to us that under the other piece of legislation, the Auditor General has the right in any event, without direction from anyone.

Mr. KNOWLES: I suggest you discuss it with Mr. Hales. I think out of courtesy we should have him, unless he is satisfied having heard what has been said here. If he wants to come, I think we should hear him.

The JOINT CHAIRMAN (*Mr. Richard*): We have carried the clauses. We can allow him to come, and if we decide to reopen it at that date, that will be all right.

Senator FERGUSON: We are not holding up the bill because there are other clauses that are being stood.

The JOINT CHAIRMAN (*Mr. Richard*): Are you coming back to my suggestion in the first place, that we should stand the clauses.

Mr. WALKER: Mr. Chairman, having very thoroughly discussed the letter and the points raised in Mr. Hales' letter, I believe that the members of the Committee who did hear the letter and seriously considered the proposals should have the opportunity of registering their decision, because they may not be here when Mr. Hales comes. Certainly, we have reopened other clauses that had been passed in other bills and we might do the same with this, but I do think the decision of the Committee, as it is now composed, should be registered in the passing of this clause. If some subsequent appearance leads us to reopen it, that is different. I think the decision of the Committee should be registered by the passing of the clauses now.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clauses 11, 12 and 13 carry?
Some hon. MEMBERS: Agreed.

An hon. MEMBER: Will the Chairman undertake to consult with Mr. Hales?

The JOINT CHAIRMAN (*Mr. Richard*): Oh, yes.

Some hon. MEMBERS: Carried.

On clause 14—*Budgets*.

Dr. DAVIDSON: This is a pretty technical change, Mr. Chairman. The operating budget is referred to here, and since this is, in the case of agency corporations frequently the budget that requires an appropriation to be made by Parliament in order to meet in part or in whole the deficit of the agency corporation, it is considered appropriate that the operating budget should carry the approval of the minister responsible for reporting to parliament on the affairs of the corporation and also the President of the Treasury Board. On the other hand, if you look over the next page, you will see that the Minister of Finance is still kept in the picture so far as the capital budget is concerned because the capital budget may have to be financed by loans or by other means for which the Minister of Finance takes the basic responsibility. It is for that reason that both the President of the Treasury Board and the Minister of Finance are referred to in subsection (2).

Clause 14 agreed to.

Clause 15 agreed to.

On clause 16—*Statement of accounts*.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any changes here?

Dr. DAVIDSON: Merely the underlined portions.

Clause 16 agreed to.

On Clause 17—*Proof of Treasury Board records*.

Dr. DAVIDSON: This, Mr. Chairman, is a purely legal provision and merely provides that a document that purports to be an entry in the records of the Treasury Board if it is certified by the secretary or the assistant secretary, is taken at its face value in court without the requirement being made that the secretary must appear in person to prove the document and prove the signature.

Mr. KNOWLES: What was the case before we had this or what is the case now?

Dr. DAVIDSON: Frankly I cannot answer that question with any accuracy, Mr. Chairman. The situation has never arisen except in one case that I can recall within the last year. In this case we had to send either one or two officers down to Montreal to deposit the document and to give personal testimony as to the document.

Mr. WALKER: I have just one question, Mr. Chairman. Are these documents sworn documents?

Dr. DAVIDSON: This would be a certified document. On the basis contemplated in this clause it would be a certified copy.

The JOINT CHAIRMAN (*Mr. Richard*): That is done on many special occasions when you deposit certain certified documents under the seal of the department attested to by an officer of the department.

Mr. KNOWLES: Anything that Dr. Davidson certifies is true.

The JOINT CHAIRMAN (*Mr. Richard*): Certified that it is a copy.

Dr. DAVIDSON: If a document with my signature on it and the designation, Secretary of the Treasury Board, is filed in court as a copy of an entry in the records of the Treasury Board, that document is taken as probative evidence of the original document's existence and that is all.

Clause 17 agreed to.

Clause 18 agreed to.

Mr. CHATTERTON: Mr. Chairman, I have one more question. Clause 1 was stood.

The JOINT CHAIRMAN (*Mr. Richard*): We will come back to clause 1 later.

Mr. CHATTERTON: All right.

The JOINT CHAIRMAN (*Mr. Richard*): That completes it for this morning, this week and for some time to come.

Mr. CHATTERTON: Mr. Chairman, may I just ask a general question of Dr. Davidson? Does a public employee have a statutory right to his wages?

Dr. DAVIDSON: Yes, sir. That was put into the Civil Service Act in 1961. I am very glad you referred to that, Mr. Chatterton, because if you will look at page 3

of this bill, subheading (d), you will note that we have carried forward the wording for the purpose of maintaining this point. The Treasury Board, under this, has the authority to determine and regulate the pay to which persons employed in the public service are entitled for services rendered. The reason for putting that wording in in the way it is, is to maintain the principle carried forward from the Civil Service Act, that employees are entitled to the wages they have earned.

Mr. CHATTERTON: Then under what instrument can a public employee's wages not be garnisheed?

Dr. DAVIDSON: This is a technical legal point about which I am not sure I am best qualified to answer. I think it is really that the crown is not obligated to receive a garnishee order.

Mr. CHATTERTON: I know that public employees, generally speaking, would like to be treated the same as other employees, particularly with regard to garnisheeing too; can that, somehow, be brought about in any of these pieces of legislation?

Dr. DAVIDSON: It certainly would not be possible by regulation to change the present provisions. I think it would require, if I am right, Mr. Chairman, specific legislation.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think it would be a popular move.

Mr. CHATTERTON: No, I disagree with you. I think the public employees want it provided they have legal rights to their pay.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think you will find much support.

I do not think it would be a very popular move.

Mr. CHATTERTON: I think it would be a very proper move.

The JOINT CHAIRMAN (*Mr. Richard*): That is a matter of opinion, and whether you believe in garnishees in the first place.

Dr. DAVIDSON: It might interest the members of the Committee to know that in the Financial Administration Act, section 88 (c), there is a provision that refers to the assignment of crown debts and so on and this section goes on to state: "Notwithstanding subsection (1), any amount due or becoming due by the crown as or on account of salary, wages, pay or pay and allowances, is not assignable, and no transaction purporting to be an assignment of any such amount is effective so as to confer on any person any rights or remedies in respect of that amount." That covers assignments; it does not cover garnishees. I do not think garnishees are referred to in the Financial Administration Act.

Mr. KNOWLES: If a civil servant owes the crown in any other respect, that can be recovered?

Dr. DAVIDSON: Yes, under section 95, I think it is, of the Financial Administration Act.

The JOINT CHAIRMAN (*Mr. Richard*): That is a different situation. It does not require interference from courts. This is submitting the crown to the action of the courts in the disposition of the compensation to be paid to an employee according to the terms set by a court.

Mr. WALKER: Mr. Chairman, is the next meeting at the call of the Chair?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. The meeting is adjourned.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 25

FRIDAY, DECEMBER 16, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Mr. A. D. Hales, M.P., Chairman, Public Accounts Committee; Dr.
G. F. Davidson, Secretary, Treasury Board; Dr. P. M. Ollivier, Parlia-
mentary Counsel and Law Clerk, House of Commons.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate Representing the House of Commons

Senators

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	Mr. Langlois (<i>Chicou-</i>
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	<i>timi</i>),
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. Madill,
Mr. Denis,	¹ Mr. Chatwood,	Mr. McCleave,
Mr. Deschatelets,	Mr. Crossman,	² Mr. Orange,
Mrs. Fergusson,	Mr. Émard,	Mr. Patterson,
Mr. Hastings,	Mr. Éthier,	Mr. Sherman,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Fairweather,	Mr. Simard,
<i>Guysborough</i>),	Mr. Hymmen,	Mr. Tardif,
Mr. MacKenzie,	Mr. Knowles,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Lachance,	Mr. Walker—24.

(Quorum 10)

¹ Replaced Mr. Rochon on December 7, 1966.

² Replaced Mr. Isabelle on December 15, 1966.

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(House of Commons)

WEDNESDAY, December 7, 1966.

Ordered—That the name of Mr. Chatwood be substituted for that of Mr. Rochon on the Special Joint Committee on the Public Service of Canada.

THURSDAY, December 15, 1966.

Ordered,—That the name of Mr. Orange be substituted for that of Mr. Isabelle on the Special Joint Committee on the Public Service of Canada.

Attest.

LÉON-J. RAYMOND,

The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

FRIDAY, December 16, 1966.

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.45 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Deschatelets, Fergusson (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Hymmen, Knowles, Lewis, Madill, McCleave, Orange, Richard, Richard, Walker (11).

In attendance: Mr. A. D. Hales, M.P., Chairman, Public Accounts Committee; Dr. G. F. Davidson, Secretary, Treasury Board; Dr. P. M. Ollivier, Parliamentary Counsel and Law Clerk, House of Commons.

Also in attendance: Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service; Mr. W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The Committee questioned the Chairman of the Public Accounts Committee on his statement concerning Clauses 11, 12 and 13 of Bill C-182.

A proposed amendment to Clause 32 of Bill C-181 was referred to a Sub-committee comprising the Joint Chairmen, one senator and a representative of each political party for study and report to the Committee.

At the request of Mr. Bell, the Committee agreed to accept as an appendix a bibliography of *Political Participation of Public Servants*. (*See Appendix W*)

Moved by Mr. Walker, seconded by Hon. Senator Denis, and resolved

That Clause 3 of Bill C-182 be amended by striking out lines 45 and 46 on page 2 and substituting the following therefor:

personnel management including its responsibilities in relation to employer and employee relations in the public service, and without limiting the generality of sections 5 and 6,

Clause 18 of Bill C-170 carried.

The meeting adjourned at 10.50 a.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

FRIDAY, December 16, 1966

The JOINT CHAIRMAN (*Mr. Richard*): Order. I see a quorum. Members of the committee will recall that Mr. Hales indicated some time ago that he would like to speak to clause 11 of Bill No. C-182. This clause was passed at the last meeting of the committee but it was agreed that we would re-open it at the next meeting and hear Mr. Hales.

Mr. HALES: Thank you, Mr. Chairman. I can assure you it is quite a switch for me this morning to be in the witness' position and not in the Chairman's position, but I think it is a good practice that everybody has their turn at both. I shall be very brief, Mr. Chairman. I have prepared a very short presentation and I will proceed with it immediately. I am sorry that it was not possible for me to appear before the committee at its last meeting when Bill No. C-182, An Act to amend the Financial Administration Act, was under discussion.

I appreciate the opportunity to speak to this because any amendments or changes to the Financial Administration Act are of considerable interest and importance to the Public Accounts Committee. This is because the Committee is charged each year by the House with examining the Public Accounts of Canada and the Reports of the Auditor General and reporting to the House of Commons thereon. It is the provisions of the Financial Administration Act which govern the preparation of the Public Accounts and which defines the duties and responsibilities of the Auditor General. Consequently the members of the Public Accounts Committee and I have a very special interest in this Act which is the foundation upon which the accounts of Canada are maintained.

On October 17th last I wrote to your Joint Chairman with regard to clauses 11, 12 and 13 of Bill C-182. It is my view—and I am sure it is yours—that nothing must be permitted to exist that would have the effect of subjecting or appearing to subject the Auditor General to the direction or control of the executive.

He is, after all, the servant of Parliament.

I feel that I owe the members of this Committee a further explanation of the circumstances surrounding and underlying my request. The fact that I did not include all the explanations in my letter of October 17, which was read and commented upon at your December 2nd meeting, I would, Mr. Chairman, with your permission, like to enlarge on two or three points.

Bill C-182 was given first reading in the House on May 12, 1966 and second reading on June 6, 1966, when the Bill was made public and thus first came to my attention and to the attention of the Auditor General.

The Public Accounts Committee started its present session of meetings on March 1, 1966 although it was not until April 5, 1966, that we were able to commence our work with the Auditor General. As we moved into our examination of his 1964 and 1965 Reports to the House, considerable discussion ensued in the Committee respecting the Office of the Auditor General, his position, duties and responsibilities which as you know have for the past several years been the subject of specific recommendations to the House and which we have been hoping to see implemented by the introduction of appropriate amendments to the Financial Administration Act.

I do not propose to burden the members of this Committee with a recital of these except—and because it is basic and pertinent to our discussion today—to quote part of an important statement made to our Committee by Mr. G. W. Baldwin, past Chairman of the Public Accounts Committee, on May 19, 1966, in which he said:

I think that the Office of the Auditor General should be under separate legislation and not combined with that of the provisions of the Financial Administration Act. All of his characteristics, his duties, his functions should be set out in an Audit Act or an Act of the Auditor General and, therefore, his position is derived directly from statute rather than from a statute of which he is only a subsidiary in his duties as far as legislation is concerned.

This suggestion was given close study by the Committee to the point where it reached a unanimous decision when it wrote its Third Report which appeared in Votes and Proceedings, June 28, 1966. In that report, along with a number of other recommendations involving, as I said, amendments we think should be made to the Financial Administration Act, the following statement appeared. This was our fifth point in that report.

The Committee is of the opinion that all of the characteristics, duties and functions of the Office of the Auditor General, including the foregoing recommendation, should be set out in a separate Act of Parliament governing this Office instead of being a part of the Financial Administration Act.

The Committee is requesting the Auditor General to consult his legal advisers and to co-operate with them in drafting such an Act for submission to the Committee and to the Government.

The Auditor General, as you probably know, has his own legal advisers and, in accordance with our request, he has proceeded to co-operate with his legal advisers. They have now completed drafting a new Act as we recommended and I am advised by the Auditor General that he expects to submit this to the Committee and to the Government when he submits his next Report to the House which will be after we return from our Christmas recess.

As Chairman of the Committee, I met with the Auditor General and his legal advisers in October to discuss the progress being made in carrying out this assignment. At that meeting my attention was drawn to the changes proposed in Bill C-182 affecting Part VII of the Financial Administration Act which defines the position and responsibilities of the Auditor General.

The legal advisers to the Auditor General argued that no changes should be made in Part VII until consideration could be given to the new legislation being prepared for study by the Committee and, we hope, acceptable to the Government and, although fully appreciating the need of the Government to have the present Act conform to the new organization of the Treasury Board, they took the view that the changes proposed in clauses 11, 12 and 13 should be set aside until new legislation could be considered.

The reasons for this view are set out in my letter of October 17th to your Joint Chairman and I assume the members of this Committee are familiar with it.

In the circumstances, therefore, I would express the hope that this Committee in its Report to the House will recommend that clauses 11, 12 and 13 of Bill C-182 be deleted and the matter referred to the Public Accounts Committee of the House to consider early in the New Year when it deals with the proposed Auditor General's Act.

Mr. Chairman, that is the brief with respect to those three sections of the act with which you are now dealing. I would accept any questions.

Mr. LEWIS: Mr. Hales, am I correct in thinking that even if these amendments are not made the Financial Administration Act would still have to be amended in various ways if the suggestion of a separate Auditor General's Act is accepted by the government and by Parliament?

Mr. HALES: You have reference to these three; clauses 11, 12 and 13 in particular.

Mr. LEWIS: And other sections. The present Financial Administration Act contains references to the Auditor General, which I assume from your statement would have to come out and all of them gathered together in a separate act governing the Auditor General.

Mr. HALES: Yes, to make it entire in its viewpoint.

Mr. LEWIS: Yes. What is the difference then if you eventually will have to amend the Financial Administration Act anyway in order to make room for the separate statute which, by the way, appeals to me as a very sensible suggestion. I do not know enough about it, but logically it seems to me a very sensible suggestion. If that is the case, why in the meantime should the Financial Administration Act not be brought into line with the reorganization. Then when the new act is introduced the amended Financial Administration Act is amended in the same way you would have to amend the unamended one, if you follow me.

Mr. HALES: Yes. Well, I am glad to hear you say that you think it is a good suggestion, and by that I think you were referring to a separate act, call it the Audit Act, or whatever it is called.

Mr. LEWIS: That is right. I think that is a very good suggestion.

Mr. HALES: I might say this is the basis on which the Australian government operate. In Australia they have an Auditor General's Act which is separate from their Financial Administration Act.

Mr. LEWIS: My point is that if your suggestion is followed, then you would have a period of time during which the Financial Administration Act would not

fit the new situation. It would not coincide with the reorganization. I do not see why you need that. I do not see why you cannot later make all the amendments that have to be made, some of which would have to be made in any case.

Mr. HALES: I am not sure that I follow you. I think you are suggesting this be allowed to go through with all its changes and then change it later on after the Audit Act comes in.

Mr. LEWIS: Yes. It may be a year before the new Audit Act is passed. In the meantime you would have a Financial Administration Act which in some respects would not coincide with the reorganization.

Mr. HALES: Well, with respect to these clauses 11, 12 and 13, if they were not changed and left as they are, it simply means that the Auditor General deals with the Minister of Finance. If they were not changed the Minister of Finance would continue to be the liaison for the Auditor General.

Mr. LEWIS: But in fact in the re-organization it is the President of the Treasury Board and the Treasury Board—

Mr. HALES: That is right.

Mr. LEWIS: —that would be carrying out the functions which were formerly carried out by the Minister of Finance.

Mr. HALES: Our suggestion is do not change these, leave them and leave the Minister of Finance in these three clauses as they were.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Ollivier, have you any opinion on this?

Dr. OLLIVIER: Well, I agree with Mr. Lewis. I do not think it makes any difference. If you are going to transfer those sections to the Auditor General's Act it is better to have them amended and transferred in a better form than they are at the moment. If it is the idea of the committee that the Auditor General should deal not only with the Governor in Council but also with the Treasury Board, why not do it now? It makes no difference. When we consolidate the act it will be consolidated with the sections which this committee wants to have in unless there is objection to those sections themselves. It is not because they are going to be transferred that you should take them out of the bill.

Mr. ORANGE: Mr. Chairman, I would like to ask Mr. Hales a question with regard to the proposed legislation of our Auditor General's Act. In reading this I gather it has been a recommendation of your committee—

Mr. HALES: Right.

Mr. ORANGE: —to the Auditor General that he prepare legislation which would meet the objectives you set out here, but does the committee have any assurance that the government is prepared to accept legislation of this type?

Mr. HALES: No, we have no assurance of that. We can only recommend.

Mr. ORANGE: Yes. Have you had the opportunity to discuss this with the government? I am curious about this. In line with what Mr. Lewis has to say, if we leave it as it is, without any assurance that there will be an Auditor General's Act, we will put ourselves, I think, in the position of not amending the legislation and there is always the possibility that the government, for reasons of its own,

may decide not to accept your recommendations. Then we are back where we were before we started and it is intended that the President of the Treasury Board will carry out this function.

Mr. HALES: Well, in answer to your question, we have not proposed this to any members of the government. It is still in committee stage. May I elaborate on that. Section 7 of the Financial Administration Act, which deals with the Auditor General and his work, seems to be working reasonably well as far as the Auditor General is concerned from what I know of it. The question I would ask is why change that around—everything seems to be running quite smoothly—until such time as this proposed act comes into being?

Mr. ORANGE: My point is that it is a recommendation of the committee and we have no assurance that there will be an act come into being, and this is the difficulty I see ourselves in at the moment. We are talking about something that is in someone's mind, but there is no assurance that the government will accept your recommendations, desirable though they may be. This is where I find myself a little confused on the whole issue.

Mr. HALES: Could I, Mr. Chairman, just clear it up? The only change that you are making in this is substituting the President of the Treasury Board for the Minister, and the Minister that the Auditor General now reports to and deals through is the Minister of Finance. What harm would there be in allowing this to continue if you go ahead and adopt your bill, leaving clause 7 as it is?

Mr. ORANGE: Is there a change in substance by moving the Auditor General's liaison to the President of the Treasury Board from the Minister of Finance?

Mr. HALES: Yes, we think there is. In the committee we feel that it is taking the Auditor General out of the realm of a servant of Parliament, and we are most anxious that he remain in that position. As I said, nothing should be done to subject the Auditor General to the direction or control of the executive. This is for Parliament.

Mr. LEWIS: Mr. Hales, you have me really confused. You say what harm is there in leaving this alone. The harm is found in the new clause 5 of Bill No. C-182, which gives to the Treasury Board the authority to act for the Queen's Privy Council. I could do it in a number of places, but I draw your attention to (c) "financial management, including estimates, expenditures" and so on. So, what you have by the new act is that the Treasury Board, not the Minister of Finance, is in charge of the general supervision of financial management including estimates, expenditures, and so on. All the things with which the Auditor General deals are now to be supervised—somebody correct me if I am wrong but I think I have it right—by the Treasury Board instead of the Minister of Finance. All the amendments to clauses 11, 12 and 13 do is to bring that in line with the re-organization. Now, if you give the Treasury Board this authority under the new clause 5 and then have the Minister of Finance as the person who asks the Auditor General to do certain things, then you leave to someone who does not have the responsibility for something the task of asking him to do something about that something, if you see what I mean. This is surely where you have a hole in the sequence.

What I am suggesting to you is that if your committee objects to all of this being handed over to the Treasury Board, leaving the Auditor General alone, if you still think the Minister of Finance ought to do all these things, that is one thing, but if the Treasury Board is to do these things surely it is the Treasury Board that is the liaison with the Auditor General instead of the Minister of Finance, and you no more bring him under the authority of the executive by switching ministers than—

Mr. HALES: Mr. Lewis, may I—

Mr. LEWIS: I just do not follow that at all.

Mr. HALES: May I help this way. These changes have to do with Part VII of the Financial Administration Act that deals with the Auditor General. We are suggesting that sections 71, 72 and 73 be left in the Financial Administration Act as they are. Now, the committee is considering making certain changes. I might refer you to Section 70, subsection (2) of the Financial Administration Act. Subsection (2) reads: "The report of the Auditor General shall be laid before the House of Commons by the Minister", and the Minister is the Minister of Finance. So, you are not changing section 70, you are leaving that in your new act, but you are changing 73 and omitting 72.

An hon. MEMBER: Does it say by the Minister or the Minister of Finance?

Mr. HALES: It says by the Minister, but I think the interpretation of "the Minister" means the Minister of Finance.

Mr. ORANGE: Could we have clarification on that particular point that Mr. Hales raised?

Mr. HALES: I think Dr. Ollivier could clear that up.

Dr. OLLIVIER: I do not think that creates any difficulty. You have to have a minister to table the report of the Auditor General, and it happens to be the Minister of Finance. That still does not change the fact that if you want to have other ministers or the Treasury Board have dealings with the Auditor General, I do not think it is an inconvenience. All the Minister of Finance does is takes the report and lays it on the table.

Mr. KNOWLES: Could that be an oversight? Should that have been changed too, so that it would be the President of the Treasury Board who would be the messenger boy?

Dr. OLLIVIER: I do not think it is necessary at all.

An hon. MEMBER: For the purpose of taking a report any minister can act for the Minister of Finance.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, could you clarify this?

Dr. GEORGE F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, that was quite intentional. It is not intended by the changes that are being made in this proposed bill that the President of the Treasury Board should replace the Minister of Finance as the minister through whom the Auditor General reports in terms of his basic functions and responsibilities to Parliament. The public accounts, which is the basic document to which the Auditor General works, is a report upon the Comptroller of the Treasury's administration and maintenance

of the public accounts. The Comptroller of the Treasury remains as a part of the Department of Finance. The Auditor General makes his report based upon the public accounts and he reports in the normal way through the Minister of Finance to Parliament, and that relationship remains undisturbed. There is, in fact, in the three sections of the bill before us no reference to the president of the Treasury Board as a minister through whom the Auditor General reports, except in one sole respect. The President of the Treasury Board is not referred to in clause 11, the new section 71. The President of the Treasury Board is not referred to in clause 12, which is the repeal of section 72. The President of the Treasury Board is referred to in only one instance, and that is in clause 13, where it says that where there is, in the view of the Auditor General, evidence that any public money has been improperly retained by any person, he shall report that circumstance to the President of the Treasury Board, whereas formerly it was the Minister of Finance. The reason for that is that the President of the Treasury Board is responsible, as the President of the Treasury Board, for what I describe as the housekeeping functions of the government. It is therefore to him in this circumstance that the Auditor General would report this individual circumstance that he discovered. I repeat that it was entirely deliberate that the relationship between the Auditor General and the Minister of Finance and Parliament was preserved, in the amendment that we are proposing, in so far as his basic function of reporting on the public accounts to Parliament is concerned.

Mr. BELL (*Carleton*): The only difference is that Mr. Hales is saying it should be preserved in all cases?

Dr. DAVIDSON: That is right.

Mr. HALES: If you are going to preserve it in one place it should be preserved in all places. That is the argument.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Hales. We were glad that we saw you even a little late.

Mr. HALES: Well, my plea is that you make no changes in clauses 11, 12 and 13 until further deliberation.

The JOINT CHAIRMAN (*Mr. Richard*): The old sections 71 and 73?

Mr. HALES: Sections 71, 72 and 73 remain as they are. It would seem, Mr. Chairman, rather strange to have one committee reporting a recommendation to the House, and then another committee coming along and recommending something entirely different. It would seem we should get together before a recommendation is made. Thank you.

The CHAIRMAN (*Mr. Richard*): Now, the next—

Mr. KNOWLES: Mr. Chairman, before you proceed to other matters, could I have 30 seconds to ask that one correction in the record be noted. It is not world shaking and it may seem a bit facetious, but there has been correspondence about a silly remark attributed to me on page 749 of the Evidence for Thursday, November 3, 1966.

Mr. LEWIS: Only one?

Mr. KNOWLES: Well, I have found many others but on that page I am quoted as having said, "Have you not heard about the Tony Nanty".

An hon. MEMBER: What?

Mr. KNOWLES: That is the point. What I said, and I would appreciate it if a correction could be made, was, "Have you not heard about the Tory Party".

An hon. MEMBER: That is not as funny.

Mr. KNOWLES: This was immediately after Mr. Cloutier made the remark that there could be only one chief.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Mr. KNOWLES: I realize that the Minutes are not reprinted, but if a note could be made in some flyleaf somewhere that would be one less silly remark attributed to me.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we will discuss clause 32 of Bill No. C-181. Mr. Walker?

Mr. WALKER: Mr. Chairman, I wonder if I might just say a word of explanation in connection with this draft amendment.

The JOINT CHAIRMAN (*Mr. Richard*): By the way, have all members got a draft of the amendment which Mr. Walker intends to move?

Mr. WALKER: This draft amendment is the government's position on this whole question of political activity in the public service. I thought I should tell the committee this. They have given long and serious thought to it. Some members may feel that it goes farther than they would like to have it go, and other members may feel it has not gone far enough. But I am in position to say that the government have looked at this whole matter and have had discussions with many interested people and the results of their discussions are before you today in this drafted amendment. I know there have been some fears expressed in some quarters that if we were not careful in this question of political activity we might turn the public service into an arena of continual political activity. I believe that the present amendment precludes such a degeneration of the civil service. I think the amendment really has general approval of the majority of our public servants, many of whom have, I believe, through the Public Service Alliance, given their suggestions. It has been helpful to me to have some material that Mr. Bell gave me privately. It is an area of contention and of debate, but I am hopeful that the committee will feel that the proposed amendments which the government approves will generally be a step forward in preserving the integrity of a non-partisan political public service, and at the same time give quite an element of individual freedom for members of the public service as individuals. I think that is all I want to say, Mr. Chairman. There will be other members, of course who will want to comment on this. I would like to move this.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, seconded by Mr. Hymmen, moves that:

Bill No. C-181 be amended by striking out section 32 and substituting the following:

Shall I dispense?

Mr. KNOWLES: Mr. Chairman, we are right at the start digressing a bit from what I thought was the understanding, namely, that we would arrive at a party consensus. Now we have a government proposal and it is moved and seconded by two government supporters.

Mr. HYMMEN: If anybody else wants to second it—

Mr. WALKER: I just want to get it on board.

Mr. KNOWLES: It is not just the moving and seconding that bothers me. Why could we not have had some meeting where we could have come up with a consensus instead of having this issue, which the government said it was leaving to the parties on the Committee, now resolved by a precise draft which comes to us from the government.

Mr. WALKER: I would just say that we have to get it aboard; we did have a discussion on this whole question. If I have done wrong, I apologize; we are just trying to get something concrete on this. This is not put forward as a government proposal, it is a proposal which the government finds themselves able to accommodate and it has their approval.

Mr. BELL (*Carleton*): Then I have misunderstood very much what Mr. Walker said. I thought Mr. Walker indicated in his remarks that the government had considered this and this was it. I took it as really being an ultimatum from the government.

Mr. WALKER: Well then, I should have gotten up earlier this morning to sort out the right words.

The JOINT CHAIRMAN (*Mr. Richard*): I did warn you before you came in and I thought you had thought our your position and how would say this, but it is all right; let us start over again.

Mr. WALKER: It is clear now that this is not put forward as a government proposal. The government would approve as far as they are concerned.

Mr. LEWIS: You have such a proposal, which the government approves.

Mr. WALKER: That is right; which is a bigger victory, I might say.

Mr. LEWIS: Mr. Chairman, the effect of this proposal is as follows, is it not, that any member of the Civil Service, at whatever rank, is permitted to be a member of a political party; to attend a political meeting; to contribute to a political party or to the election of a member, but no employee in the Civil Service, even the lowliest one, can work on behalf of a candidate. That is what 1(a) means, does it not? And no member of the public service—not even the lowliest one—can be a candidate without first applying to the Public Service Commission and receiving from the commission permission to run as a candidate, and the necessary leave of absence. No employee, no public servant—no matter only how lowly his post—can work in any campaign. That is what this means. So that you, Mr. Bell, and Mr. Co-Chairman, who represent ridings in which a good many civil servants undoubtedly live, even the lowliest clerk cannot distribute a leaflet on your behalf without contravening this proposal.

Mr. KNOWLES: Or talk to his neighbour.

Mr. LEWIS: Or talk to his neighbour on your behalf without contravening this, and I am darned if I see sense in that at all.

Mr. ORANGE: Mr. Chairman, added to what Mr. Lewis has to say, as I understand it, at the present time there are certain classes of civil servants such as prevailing rate personnel, exempt personnel, such as teachers in the federal

service, and so on, who are able to participate fully and completely in political activity. Do I understand from this amendment that as far as these particular groups are concerned it is really a retrograde step; in other words, they are losing some of the rights they now have. I would like some clarification on that.

Mr. LEWIS: I think you are right, Mr. Orange.

Mr. KNOWLES: The only thing in this that is good is clause (2), which does permit people no matter how much higher they are to do certain things. But, as has been pointed out, it denies to other people the right, no matter how long they are in the civil service, to do anything.

Mr. BELL (*Carleton*): It provides for a leave of absence for a candidate but for no reinstatement after a period of service in a legislative body, such as is done in virtually all the other acts; it is in the Ontario Act and the Saskatchewan Act. I wonder if Mr. Walker would answer the question that was put by Mr. Orange. I think it is a very significant one, and that is the position of prevailing rates people now and how they will be affected by this. Prevailing rates are not under the Civil Service Act. Does the old section on political partisanship apply to them?

Mr. WALKER: Do you have the old act before you? Some of the wording is directly out of the old Civil Service Act:

32 (1) No deputy head or employee shall

- (a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories; or
- (b) contribute, receive or in any way deal with any money for the funds of any such candidate or of any political party.

Mr. KNOWLES: We have brought people in under the Civil Service Commission now who were not under the commission at that point.

Mr. BELL (*Carleton*): A prevailing rates employee at the present time is not an employee for the purpose of the Civil Service Act. Therefore, section 60(1) does not apply to that person.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, is it your contention that before this a public works employee could take part in elections?

Mr. BELL (*Carleton*): Yes, section 60 (1) does not apply to public works employees of a prevailing rate nature.

Mr. WALKER: My information—if I have it right, and if I am not right my advisers here will tell me so—is that we presume that all prevailing rate employees will in fact become employees under the new Public Service Act.

Mr. BELL (*Carleton*): The position we are putting to you, Mr. Walker, is that under the existing section 60(1), which governs political partisanship, a prevailing rate employee is not an employee. Under the new act a prevailing rate employee does become an employee. Therefore the new and more restrictive provisions will apply to such a person.

Mr. WALKER: In such areas there formerly were people outside the broad definition of prevailing rate employees who now are being brought in under the Public Service Act. Does this not put everybody on the same footing?

Mr. BELL (*Carleton*): We agree with that.

Mr. ORANGE: But you are penalizing a group of people who have rights at the present time, and it is not only prevailing rates; there are other categories of public servants and I am thinking of federal teachers who are able to participate actively. Under this new arrangement these people will be denied some of the rights they now have.

Mr. WALKER: Yes, and a great bulk of people will be given some rights which they did not have.

Mr. KNOWLES: And which some of them do not even want.

Mr. LEWIS: Such as being a member of a political party and making a contribution. I will bet you dollars to doughnuts there are people who do that now.

Mr. WALKER: Well, we are just trying to relieve their minds of any—

Mr. LEWIS: Well, you have to relieve more than their minds.

Mr. ORANGE: Apart from other areas, this particular point with respect to prevailing rates and other categories of federal employees, we are taking something from them that they now have.

Mr. WALKER: Is it your suggestion that the former rights, if you will, of the prevailing rate employees with regard to political activity should extend right through the whole public service?

Mr. ORANGE: No, I am not suggesting anything. I am suggesting that there are groups of people—and I am being very parochial about this—in my own campaign, for example, where the N.D.P. candidates' official agent and his campaign manager were both federal teachers. The official agent of the Conservative candidate was a teacher. I had several teachers working on my behalf. Under this proposal these people would be denied the right to participate actively in a campaign and, frankly, from our own point of view I think this would be wrong regardless of the partisan aspects of this. In my own area we need the expertise and the energy of these people to assist in the democratic process. Otherwise I think it would have a great effect on the over-all results of the effectiveness of an election.

Mr. WALKER: Mr. Chairman, I wonder if you want to go at this clause by clause?

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes, I think this is the time to go at it. I just want to say that I think those first words "engage in work", if they mean anything, should have been "engage in partisan work". Otherwise it could mean a person delivering parcels, or typing or anything else. If it is not "partisan" it means nothing.

Mr. McCLEAVE: It might rule out the postman delivering the mail.

Mr. BELL (*Carleton*): As a matter of fact, it would rule out a member's secretary.

The JOINT CHAIRMAN (*Mr. Richard*): Well, that is what I was thinking.

Mr. LEWIS: Mr. Chairman, I was going to say that Mr. Walker has made a good try. I am not personally prepared to deal with this clause by clause and suggest amendments as we go along. I would like to suggest—and if necessary move—that the Committee lay this on the table and that each one of us take a copy with us and think about it. I would also like to suggest that a small sub-committee of three or four, one representative from each party around this table, be appointed—or five or six, I do not care how many—to have a go at this before it comes to the full Committee, so that we have genuine consultation among the parties, to see if we cannot arrive at something more satisfactory than what is before us. I think if we try to do it this morning it will not be a very thoughtful job. I do not see any rush for this. A delay of a few days will not make any difference. I would like to see some consultation in a small committee among the political parties represented here, and after each one of us has studied this and made suggestions to our representatives on that small committee, then that small committee can work at it in as non-partisan a spirit as possible and come up with some solution. That is a general suggestion I make. If you need a motion I will move it.

The JOINT CHAIRMAN (*Mr. Richard*): I agree with you, Mr. Lewis and this can be taken as being a working paper. Would the Committee mind if I suggest that this committee be appointed right away and that we should meet, if possible, on Monday afternoon, or perhaps we can find some time during the evening.

Mr. LEWIS: Well, Monday is too short, Mr. Chairman, if we should be faced with special legislation. I do not know how long we will be sitting with regard to the air traffic control. If we should happen to be faced with special legislation there may not be much time between now and Monday.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps Tuesday?

Mr. LEWIS: I think we could meet Tuesday.

The JOINT CHAIRMAN (*Mr. Richard*): You will leave it to me, then?

Mr. KNOWLES: Mr. Chairman, because this is an all-party rather than a government measure, I suggest that the Committee consist of the chair, or both chairmen, plus one from each party.

The JOINT CHAIRMAN (*Mr. Richard*): That is what I had in mind.

Mr. KNOWLES: I think the Social Credit party has membership on this Committee.

Mr. WALKER: That is right, Mr. Patterson is here periodically.

Mr. KNOWLES: Well, this is giving the Liberals a little edge by virtue of the chairmen, but you fellows are so impartial up there—

The JOINT CHAIRMAN (*Mr. Richard*): Well, we have not been throwing our weight around very much in this Committee, as you may realize. Therefore we will try to meet Tuesday at the call of the chair.

Some hon. MEMBERS: Who is going to be on this committee?

The JOINT CHAIRMAN (*Mr. Richard*): I would imagine Mr. Bell, Mr. Lewis, Mr. Walker, and—

Mr. KNOWLES: Mr. Patterson.

Mr. BELL (*Carleton*): Mr. Chairman, I am involved in a problem on Tuesday, and I will probably ask Mr. Chatterton if he will substitute for me.

The JOINT CHAIRMAN (*Mr. Richard*): Yes. Well, that will be up to you. I will call one from each party.

Mr. BELL (*Carleton*): Mr. Chairman, with the assistance of the library I have put together a one-page bibliography on this subject, copies of which I have given to some members of the Committee. It occurs to me that it might be useful to have it as an appendix. The parliamentary library was very helpful in getting together a number of the articles, and if it is the wish of the Committee perhaps it might be printed as an appendix.

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed?

An hon. MEMBER: Was a copy sent to each member?

Mr. BELL (*Carleton*): No.

An hon. MEMBER: Oh, I thought you said you had.

The JOINT CHAIRMAN (*Senator Bourget*): Each member should have a copy of it right now. It is agreed that the motion made by Mr. Walker be withdrawn?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Senator Bourget*): Without attempting to run your Committee, are we doing anything about the sheet of paper that was here on clause 3 of Bill No. C-182?

The JOINT CHAIRMAN (*Mr. Richard*): There was another matter referring to clause 3 of Bill No. C-182. Dr. Davidson wished to speak to this amendment.

Dr. DAVIDSON: Mr. Chairman, this was one of the points that was left over for further consideration arising out of some comments made, I think, by Mr. Lewis in relation to clause 3 on page 2 of Bill No. C-182. It will be recalled that he was concerned about the interpretation of the opening lines, and made the point that as he read it the phrase:

notwithstanding any other provision contained in any enactment . . . could be interpreted as meaning that the Treasury Board, notwithstanding the existence of Bill No. C-170, could proceed in the exercise of the authority that is set out on page 3 of this bill. I gave at that time the view expressed by the Department of Justice that the purpose of this clause is to make certain that Treasury Board has the authority set out on page 3 so that, when it enters into an agreement under Bill No. C-170, it can discharge the commitments that it enters into under that agreement. Bill C-170 merely authorizes the Treasury Board to enter into agreements. It does not confer on the Treasury Board any authority. The Treasury Board must derive its authority to discharge its commitments under an agreement from some other legislative source. The purpose of this clause is to ensure that that power is vested in the Treasury Board. It is important that the existing powers and authorities which, as I have said, are scattered in 75 pieces of legislation through a variety of ministerial and other authorities be collected together and vested in the Treasury Board so it will have the authority, beyond doubt, to honour the commitments it has entered into in the agreements signed under the collective bargaining legislation.

A suggestion was made in the course of our discussion the week before last that we might meet this problem by enlarging the definition of personnel management in the public service to include a reference not only to the determination of terms and conditions of employment of persons employed therein but, in addition, to include a reference to including the authority to enter into collective agreements. We have taken this up with the Justice Department officials and they have found difficulty in including the expressions which were suggested at the last meeting in the definition of personnel management as set out on page 1 of the bill. They have encountered two difficulties.

First of all, they point out that the opening words of clause 5(1) are: "The Treasury Board may act for the Queen's Privy Council for Canada on all matters relating to", et cetera. This means that in the exercise of its responsibilities under clause 5(1) the Treasury Board acts for the Queen's Privy Council, and it follows that the Treasury Board can only exercise authorities under this clause to the extent that those authorities are vested in the Queen's Privy Council. By the collective bargaining bill the authority to enter into agreements is vested, not in the Queen's Privy Council, but in the Treasury Board itself and therefore it would not accomplish the purposes we have in mind to include references to the authority to enter into collective agreements in clause 5(1)(e), as set out on page 1 of the bill.

Furthermore, the Justice Department officers point out that what is required here is a clear authority for the Treasury Board to exercise all of its responsibilities and authorities in the field of employer and employee relations as dealt with in the collective bargaining bill, not merely the authority to enter into collective agreements. It is for that purpose that they have suggested a wording which, in their view, is designed to meet Mr. Lewis' concern and that wording was set out on the mimeographed sheet which has been circulated for the consideration of the members. The wording that the Department of Justice has developed in an endeavour to meet this point, if I read it into the words as they stand in the bill now, clause 7(1) would read as follows: "Subject to the provisions of any enactment respecting the powers and functions of a separate employer but notwithstanding any other provision contained in any enactment, the Treasury Board may, in the exercise of its responsibilities in relation to personnel management, including its responsibilities in relation to employer and employee relations in the public service, and without limiting the generality of sections 5 and 6," and the rest of the clause follows on. The insertion of these words "including its responsibility in relation to employer and employee relations in the public service" would make it clear that notwithstanding any other provision contained in any enactment, the Treasury Board may, in the exercise of its responsibility in that field which is the field covered by Bill C-170, carry out the duties and responsibilities that are assigned to it in the succeeding clauses.

Mr. LEWIS: Mr. Chairman, God bless my fellow lawyers! I would like to ask Dr. Ollivier as well Dr. Davidson, why could the law officers not, through you, sir, have had this amendment read simply as follows: "personnel management, including its responsibilities under the Public Service Staff Relations Act"? You get the two acts tied in one with the other and you know exactly what you are talking about.

Dr. OLLIVIER: I imagine it would be more definite. Instead of referring to the circumstances we refer to the act which governs the circumstances. I do not see any objection to it.

Mr. WALKER: Are there other things in the act beyond this specific area, when you refer to this?

Mr. LEWIS: I do not think so. The act gives the Treasury Board responsibilities in relation to employer and employee relations in the public service. You have in this amendment a new phrase that, strictly speaking, ought to be defined if it is to avoid argument, "employer and employee relations in the public service."

Mr. BELL (*Carleton*): Mr. Lewis, would you not have to put in more than the one act, because there are responsibilities of employer and employee relations that are outside the Public Service Staff Relations Act?

Mr. LEWIS: I know, but I think what was in the mind of the drafters originally, and I think correctly, is that the term "personnel management" is a pretty wide term. What they are trying to do here is to say that a specific employer-employee relation set up under Bill No. C-170 is what is now specifically referred to. Why not say that?

Mr. BELL (*Carleton*): Well, what I would be concerned about is that you might, by your proposed language, exclude the consultative process which is retained by an amendment of which you were the originator and which is retained in the Public Service Employment Act, is it not?

Dr. DAVIDSON: Could I just make one point, Mr. Chairman? Really, I apologize to Mr. Lewis and the members of the Committee for seeming to act as an intermediary between lawyers, neither of whose points of view I completely understand.

Mr. LEWIS: That does not make you any different.

Dr. DAVIDSON: It does not make me a lawyer, Mr. Chairman, or qualify me to speak on legal points.

Mr. LEWIS: Oh yes, it does. If you do not follow the other side just to make sure—

Dr. DAVIDSON: Could I just make this point? I think the reason, if I understand it correctly, why the lawyers chose the words that they did, this reference to "responsibilities in relation to employer and employee relations in the public service," and their purpose in not referring solely to Bill C-170 was twofold.

First of all, these words appear in the title of Bill No. C-170. Bill No. C-170 is entitled, "An Act respecting employer and employee relations in the Public Service of Canada". Therefore, by including these exact words as they appear in the title, I think the Justice Department officials considered that they were clearly including the reference to Bill No. C-170 in this, but in addition there are other responsibilities which the Treasury Board has to exercise in relation to employer-employee relations which are not dealt with in Bill No. C-170, and in order to make sure that they too are included, they used this descriptive phrase

rather than merely a limited reference to one act of parliament. I think that is the point, but I am not sure that I speak with the full authority of the Justice Department on that point.

Mr. WALKER: Mr. Lewis, apart from the simplicity of your wording, does this do more than you want to see done?

Mr. LEWIS: I do not know. I may be cavilling about things. My concern is that it be clearly understood that the Treasury Board does not have the kind of exclusive authority which it had before the collective bargaining regime, and that the collective bargaining regime is to be a meaningful thing. The Treasury Board as the employer has one side in that collective bargaining. Now, that is the reason for my anxiety to have Bill No. C-170 more directly identified. However, it may be identified sufficiently. I may be wrong.

Dr. DAVIDSON: Could I make one small point here, Mr. Chairman? I think it is important that by this enactment Treasury Board shall have the exclusive authority, but not the authority to exercise that unilaterally in disregard of the responsibilities that are placed upon it under the Public Service Staff Relations Act. The purpose of this clause is to make certain that Treasury Board in these areas does have the exclusive authority within the framework of the government and, equally, that this clause cannot be interpreted to authorize Treasury Board in the exercise of that exclusive authority to disregard the obligations placed upon it under the Public Service Staff Relations Act. I can assure Mr. Lewis that that is the clear intent of this. I can assure him that the justice authorities are convinced that this is the meaning of the words and that it will be so interpreted. I hope he will accept that as sufficient assurance for his purposes.

The JOINT CHAIRMAN (*Mr. Richard*): Shall the amendment carry?

Amendment agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): I am told by the Clerk of the Committee that we overlooked at some time clause 18 of Bill No. C-170 because we were considering other clauses in the act, and that it would now be in order to pass clause 18.

On clause 18—*Powers and duties of the Board.*

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 18 carry?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There are no other—

Mr. WALKER: There is just one point. I do not know at what stage or whether instructions are needed for the reprinting when we conclude here.

The JOINT CHAIRMAN (*Mr. Richard*): Not until it is completed.

Mr. WALKER: We cannot do it ahead of time?

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. LEWIS: Finally, we have not yet dealt with clause 7 of Bill No. C-182.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 7 still stands. The next meeting of the subcommittee will be on Tuesday, I hope.

Mr. BELL (*Carleton*): May I ask Dr. Davidson one question? Has any consideration been given in this act to a statutory base for the Pay Research Bureau?

Dr. DAVIDSON: Mr. Bell and members of the Committee will recall that in the discussions which took place, I believe, on second reading of Bill No. C-182, the Minister made some reference to the Pay Research Bureau and you yourself made some reference to it. The Minister undertook at that time to have consultations at the appropriate point with the staff associations. I think I am right in stating that the staff associations have been written to. Is that correct? Yes, that is correct. Their views are now being ascertained and I cannot say more than that because I have not seen any of the responses from the staff associations.

Mr. BELL (*Carleton*): Before we close, I would like to know what the response is from the staff associations. Reference was made to this in many of the briefs and some of them, as I recollect, did suggest a statutory base for the bureau, including what should be the terms and conditions under which the information collected would be made available.

There is just one other aspect along the same line. I wonder whether you have given any consideration to the question of a standing advisory committee for the higher grades such as they have in the United Kingdom?

Dr. DAVIDSON: I am aware of that suggestion, Mr. Chairman. That was made, as I recall it, by the Professional Institute of the Public Service. When Mr. Leslie Barnes was before us he made the suggestion, and this will be found at page 509 in the report of the Priestly Committee, which is an appendix to the proceedings. The Priestly Committee, I suppose, is referred to in capitals in your statement?

Mr. BELL (*Carleton*): It is indeed.

Mr. KNOWLES: And reverently, too.

Mr. Chairman, have you yet had any indication when the government is going to make the motion to enlarge the terms of reference of this Committee so that we can discuss the problem of the pensions of retired civil servants? My reason for asking this type of question is that I do not want us to get into the position of being ready to report these bills and run the risk of the Committee becoming defunct before we have that term of reference. I am standing by the agreement I made that we would not ask to discuss this matter until we had finished these bills, but I do not want us to become defunct. It seems to me there has to be a motion enlarging our terms of reference before we make our final report.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles, as I understand it, even if we reported this bill it would not be a final report of our Committee unless we call it final. In any event, I do not want to be technical.

Mr. KNOWLES: Mr. Chairman, you may be right. I have argued this myself. I have been discussing it with the Clerks at the table and it has been suggested to me that we should not take a chance. It is very simple; if we are going to be given the term of reference, let us have it.

The JOINT CHAIRMAN (*Mr. Richard*): I am entirely in favour of it, Mr. Knowles.

Mr. KNOWLES: I know you are.

The JOINT CHAIRMAN (*Mr. Richard*): I do not anticipate that it would be very difficult to satisfy our desires.

Mr. KNOWLES: I think that Mr. Bell and I might reach agreement not to debate the motion in the house. Could we not do this?

The JOINT CHAIRMAN (*Mr. Richard*): That would be a step forward.

Mr. KNOWLES: Watch out for "step forward" around this place.

Will you pursue it with Mr. Benson, and will Dr. Davidson pursue it with his minister, too?

Dr. DAVIDSON: I have not forgotten my promise to you the last time we talked about this, Mr. Knowles.

The JOINT CHAIRMAN: The meeting is adjourned.

APPENDIX "W"

(On clause 32 of Bill No. C-181)

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OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 26

MONDAY, JANUARY 23, 1967
TUESDAY, JANUARY 24, 1967
THURSDAY, JANUARY 26, 1967

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Dr. G. F. Davidson, Secretary, *Treasury Board*; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicou-
timi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, January 23, 1967.

(45)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.15 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Émard, Knowles, Lachance, Langlois (*Chicoutimi*), McCleave, Patterson, Richard, Walker (10).

An informal discussion on the remaining clauses of Bills C-170, C-181 and C-182 and the proposed amendments thereto was the subject matter of this meeting held *in camera*.

At 9.35 p.m., the meeting adjourned to 10.00 a.m. the following day.

TUESDAY, January 24, 1967.

(46)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Émard, Fairweather, Hymmen, Knowles, Lachance, Langlois (*Chicoutimi*), Lewis, McCleave, Patterson, Richard, Tardif, Walker (15).

In attendance: Dr. G. F. Davidson, Secretary, Treasury Board; Mr. P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee concluded its study of Bill C-182 as follows:

Clause 1, carried; Clause 3, carried as amended (see motion below); Preamble, carried; Title, carried; Bill to be reprinted and reported as amended (see motion below at evening sitting).

Moved by Mr. Walker, seconded by Hon. Senator Fergusson,

Agreed,—That Clause 3 of Bill C-182 be amended by deleting lines 46 and 47 on page 4 (re section 7(7)) and substituting the following therefor:

"Canada, to suspend any person employed in the public service or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person concerned has been given an opportunity of being heard, to dismiss any such person."

The Committee proceeded to the study of Bill C-170 as follows:

Clause 26, carried as amended (see motion below); Schedule B, carried as amended (see motion below); Clause 72, carried as amended (see motion below); Clause 28, carried as amended (see motion below); new Clause 29, carried; Sub-clause 39(2), carried on division; Sub-clause 17(2), carried as amended (see motion below); Clause 99, carried as amended (see motion below).

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Clause 26 be struck out with marginal notes and the following substituted therefor:

"Specification of occupational groups. 26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupation groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be specified on basis of program of classification revision. (2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When application for certification may be made. (3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining units during initial certification period. (4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

Where objection filed.

(a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining, and

(b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

(6) During the initial certification period, in respect of each occupational category,

Times relating to commencement of collective bargaining during initial certification period.

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

(7) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purpose of this Act, the Board shall, at the time of making the determination,

Other occupational categories.

(a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and

(b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That the date in the new Schedule B shown in Column I opposite Operational Category be changed from Jan. 31, 1967 to Feb. 28, 1967.

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 72(2) be amended by striking out lines 27 and 28 on page 34 and substituting the following therefor:

“on the parties but not before,

- (a) in the case of an arbitral award rendered during the initial certification period, a day six months before the day specified in Column II of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and
- (b) in any other case, the day on which notice to bargain collectively was given by either party.”

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 28(1) be amended by striking out lines 3 and 4 on page 15 and substituting the following therefor:

“tions, the council so formed may, subject to section 30, apply in the manner prescribed to the Board for certi-”.

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 28(2) be amended by striking out paragraph (b) thereof and substituting the following therefor:

“(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent.”

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 28(3) be renumbered as Clause 29 and that lines 19 and 20 on page 15 be struck out and the following substituted therefor:

“29. A council of employee organizations shall, for all purposes of this Act except subsection (2) of section 28, be deemed”.

By leave, moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That the new Sub-clause 17(2) be amended by deleting the words “under the Chairman” and substituting therefor “, subject to the direction of the Chairman,”

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Clause 99 be amended by striking out all that portion of the said clause preceding line 25 on page 46 together with the marginal notes and substituting the following therefor:

“Regulations
re proce-
dures for
presentation
of griev-
ances.

99. (1) The Board may make regulations in relation to the procedure for the presentation of grievances, including regulations respecting

- (a) the manner and form of presenting a grievance;

- (b) the maximum number of levels of officers of the employer to whom grievances may be presented;
- (c) the time within which a grievance may be presented up to any level in the grievance process including the final level;
- (d) the circumstances in which any level below the final level in the grievance process may be eliminated; and
- (e) in any case of doubt, the circumstances in which any occurrence or matter may be said to constitute a grievance.

(2) Any regulations made by the Board under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

(3) The Board may make regulations in relation to the adjudication of grievances, including regulations respecting

- (a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chief adjudicator to an adjudicator;
- (b) the manner in which and the time within which boards of adjudication are to be established;
- (c) the procedure to be followed by adjudicators; and
- (d) the form of decisions rendered by adjudicators.

(4) For the purposes of any provision of this”.

Regulations re adjudication of grievances.

Employer to designate persons at final or any level in grievance process.

During the discussion on Clause 1, the Committee accepted for consideration a motion by Mr. Lewis

“That the appropriate Clause be amended to include the following wording:

The Treasury Board shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to remuneration and other terms and conditions of employment of public servants excluded from bargaining units by virtue of subsection (u) of section 2 of this Act.”

At 12.50 p.m., the meeting adjourned to 8.00 p.m. this same day.

EVENING SITTING

(47)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.32 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Cameron, Denis, Ferguson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Crossman, Emard, Either, Fairweather, Hymmen, Knowles, Lachance, Langlois (*Chicoutimi*), Lewis, McCleave, Patterson, Richard, Walker (16).

In attendance: Mr. P.M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee resumed discussion of Clause 1 of Bill C-170 and agreed to accept Mr. Walker's proposed recommendation for the Committee's report with certain modifications (*See Evidence for text*).

The Committee agreed to the withdrawal of the motion put by Mr. Lewis at the morning sitting.

The Committee concluded the study of Bill C-170 as follows:

Clause 1, carried; Preamble, carried; Title, carried; Bill to be reprinted and reported as amended (see motion below).

Moved by Mr. Walker, seconded by Mr. Chatwood,

Resolved,—That Bill C-170 be reprinted as amended for the report to the Senate and House of Commons.

Moved by Mr. Walker, seconded by Mr. McCleave,

Resolved,—That Bill C-182 be reprinted as amended for the report to the Senate and House of Commons.

The Committee concluded its study of Bill C-181 as follows:

Clause 32, carried as amended (see two motions below); Paragraph 34(1)(c), carried; Paragraph 5(d), carried as amended (see motion below); Sub-clause 6(1), carried as amended (see motion below); Schedule A, carried; Schedule B, carried; Schedule C, carried; Schedule D, carried; Clause 1, carried; Preamble, carried; Title, carried; Bill to be reprinted and reported as amended (see motion below).

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Clause 32 and marginal notes be deleted and the following substituted therefor:

Political
partisan-
ship.

32. (1) No deputy head and, except as authorized under this section, no employee, shall

- (a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or
- (b) be a candidate for election as a member described in paragraph (a).

Excepted
activities.

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate. Leave of absence.

(4) Forthwith upon granting any leave of absence under subsection (3), the Commission shall cause notice of its actions to be published in the *Canada Gazette*. Notice.

(5) An employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon ceases to be an employee. Effect of election.

(6) Where any allegation is made to the Commission by a person who is or has been a candidate for election as a member described in paragraph (a) of subsection (1), that a deputy head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission, Inquiry.

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of an employee, may, if the board has decided that the employee has contravened subsection (1), dismiss the employee.

(7) In the application of subsection (6) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act." Application of ss. (6).

Moved by Mr. Lewis, seconded by Mr. Knowles,

That Bill C-181 be amended by striking out section 32 and substituting the following:

"32. (1) No deputy head or chief executive officer or person employed in a managerial or confidential capacity as defined in subparagraphs (i), (ii) and (iii) of subsection (u) of section 2 of the Public Service Staff Relations Act shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the Council of the Yukon Territory or the Northwest Ter-

ritories, or engage in work for, on behalf of or against a political party or

- (b) be a candidate for election as a member described in paragraph (a).

(2) A person does not contravene subsection (1) by reason only of his being a member of a political party, attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

(3) Notwithstanding any other Act, upon application made to the Commission by a person, other than a deputy head, referred to in subsection (1), the Commission may, if it is of the opinion that the usefulness to the Public Service of such person in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to such person leave of absence without pay to seek nomination as a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee.

(4) Notwithstanding any other Act, an employee who proposes to become a candidate in a provincial or federal election shall apply to the Commission for leave of absence without pay for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee, and the Commission shall grant such leave.

(5) Fortwith upon granting any leave of absence under subsection (3) or (4) the Commission shall cause notice of its action to be published in the *Canada Gazette*.

(6) A person or employee who is elected as a member described in paragraph (a) of subsection (1) thereupon terminates his employment in the Public Service.

(7) No employee or person referred to in subsection (1) shall

- (a) associate his position in the Public Service with any political activity,
- (b) speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal party or candidate, unless he is himself a candidate in an election,
- (c) engage during working hours or on the premises of the employer in any activity for or on behalf of a provincial or federal political party or candidate.

(8) Where any allegation is made to the Commission by a person referred to in subsection (1) or an employee that any deputy head or other person referred to in subsection (1) or any employee, has contravened subsection (1) or subsection (7) the allegation shall be referred to a board established by the Commission to conduct an

inquiry at which the person or employee making the allegation and the deputy head or other person or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

- (a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and
- (b) in the case of any other person or employee may, if the board has decided that such person or employee has contravened subsection (1) or subsection (7), dismiss him.

(9) In the application of subsection (8) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act."

And the question being put on the said proposed subamendment, it was negatived on following division: Yeas, Senator Cameron and Messrs. Bell (*Carleton*), Fairweather, Knowles, Lewis, McCleave, Patterson—7; Nays, Senators Denis, Fergusson and Messrs. Berger, Chatwood, Crossman, Emard, Hymmen, Lachance, Langlois (*Chicoutimi*), Walker—10. (N.B. The sub-amendment appears as a complete clause for ease in reading.)

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That the new paragraph 5(d) be revised as follows:

- "(d) establish boards to make recommendations to the Commission on matter referred to such boards under section 6, to render decisions on appeals made to such boards under sections 21 and 31 and to render decisions on matters referred to such boards under section 32;"

Moved by Mr. Walker, seconded by Mr. Chatwood,

Agreed,—That Sub-clause 6(1) be amended by adding "and inquiries under section 32." after "31" line 36 page 4.

Moved by Mr. Knowles, seconded by Mr. Lachance,

Resolved,—That Bill C-181 be reprinted as amended for the report to the Senate and House of Commons.

At 10.11 p.m., the Committee adjourned to the call of the Chair.

THURSDAY, January 26, 1967.

(48)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.38 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Hymmen, Knowles, Lachance, Lewis, Richard, Walker (9).

An informal discussion on the reports to the Senate and the House of Commons on Bills C-170, C-181 and C-182 was the subject matter of this meeting held *in camera*.

Moved by Mr. Chatwood, seconded by Mr. Bell (*Carleton*),

Agreed,—That the reprinted bills be available on the day of the reports to the Senate and House of Commons in the number of copies—800 English and 500 French.

At 9.00 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, January 24, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we will start the meeting.

We are considering Bill No. C-182. There were two minor questions on clause 1. There was a matter raised by Mr. Lewis on 5 (1) (e). I wonder if Dr. Davidson recalls what that was about.

Dr. G. F. Davidson (*Secretary, Treasury Board*): I recall what it was about Mr. Chairman. Unless my recollection is faulty, I think that was dealt with at the last meeting of the Committee not by making a change in the wording at the point which Mr. Lewis and I discussed but by making a change in another part of the bill, on the advice of Mr. Thorson, the legislative counsel.

According to the record, this concerned the suggestion by Mr. Lewis that somewhere in the financial administration bill there should be an explicit provision for the Treasury Board to have the power to enter into collective agreements.

He acknowledged that it was not technically necessary because it is covered in clause 55 of Bill No. C-170, but he was suggesting that, for greater clarity, it would be well to have some wording that would indicate this in Bill No. C-182.

I am sorry to say that I was not aware that this point was going to be raised this morning, but I am satisfied that this was taken care of in a manner satisfactory to Mr. Lewis at a later stage in the proceedings last December.

Clause 1, paragraph 5 (1) (e) carried.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Chatterton had some reservations on subclause 5(2), if I remember correctly. That is to be found on page 1170 of the proceedings.

Dr. DAVIDSON: On this point, Mr. Chairman, if I may say a word, I think this was also raised at a later stage. Both of these points, if my recollection is correct, arose at the meeting which Mr. Hales attended.

Mr. Chatterton's query to me was whether the provisions in clause 1, 5 (2) of the financial administration bill, which reads:

The Treasury Board is authorized—

meant that the Treasury Board was authorized to exercise under the listed enactments the authority normally vested in the Governor in Council to pass regulations. I think I explained at the subsequent meeting that, on the advice of the legal officers whom I had consulted, this would mean that the Treasury Board was authorized to pass regulations to the extent that they were authorized to do so by the Governor in Council; that, in fact, the Treasury Board does have the power under the present legislation to pass regulations in respect of the bills that are listed there, in any case; and that the catch-all subparagraph at the end

of this clause is controlled by the wording which limits the authority of the Treasury Board to the authority that the Governor in Council it in specific instances.

I do not think there is any substantial change there, Mr. Chatterton, from the present position on the delegation by the Governor in Council of regulation-making authority to the Treasury Board.

Clause 1, 5 (2) agreed to.

On clause 3 7 (7)—*Right or power of Governor in Council not affected.*

Mr. WALKER: Mr. Chairman, if I remember correctly, last night we agreed with this in principle when we were speaking among ourselves about this particular clause.

The JOINT-CHAIRMAN (*Mr. Richard*): Are you moving the clause now?

Mr. WALKER: Yes, but there were questions—

The JOINT-CHAIRMAN (*Mr. Bourget*): Mr. Knowles wanted to ask some questions about this.

Mr. WALKER: Yes; Mr. Knowles had a question dealing with the pension rights of any person involved in the clause.

Again, pension rights are not dealt with in this particular bill. Are pension rights dealt with in the superannuation act?

Dr. DAVIDSON: Mr. Chairman, the provisions governing the pension rights of a person dismissed for any reason are spelled out in the regulations under the Public Service Superannuation Act.

Mr. WALKER: That being so, I wonder if it would meet Mr. Knowles' point if the Committee took note that this is a subject that we may discuss later in connection with any proposed regulations that we might think of attaching of the Public Service Superannuation Act?

There is no clause in the Financial Administration Act on which we can discuss the question raised by Mr. Knowles.

Mr. CHATTERTON: How can we have an opportunity of discussing the regulations?

Mr. WALKER: This is something I will have to ask the Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): I do not think we will have any opportunity to discuss the regulations; but, as I understand it, and as I understood it last night, the Committee had agreed to the wording of this clause. There were some reservations by Mr. Knowles about what happens to the pension rights of such a party. I do not think it can be dealt with under this clause.

Mr. BELL (*Carleton*): Mr. Chairman, what we might do is put a clause in our report to the effect that, consequent upon this amendment, a review of the regulations governing superannuation for persons affected by this clause be undertaken.

The JOINT CHAIRMAN (*Mr. Richard*): Will you move that?

Mr. WALKER: I move that clause 3 Section 7(7) of the Financial Administration Act be further amended by striking out lines 46 and 47 on page 4 thereof and substituting the following:

"Canada, to suspend any person employed in the public service, or after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person concerned has been given an opportunity of being heard, to dismiss any such person."

Senator FERGUSON: I second the motion.

The JOINT-CHAIRMAN (*Mr. Richard*): Shall the amended clause carry?

Clause as amended agreed to.

Preamble agreed to.

Mr. BELL (*Carleton*): I would just like to say, before the title carries, that unfortunately I was absent when the provisions dealing with Governor General's warrants were taken up.

I do not want to go into the details now but I reserve the right briefly to express my view in the House in connection with Governor General's warrants. If I do so, I hope no one will feel that I have double-crossed the Committee on this.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure we are looking forward to hearing you in the House, Mr. Bell.

Title agreed to.

The JOINT CHAIRMAN: Shall I report the bill?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): This concludes the study of Bill C-182.

We will now move to Bill C-170.

On clause 28—*Application by council of organizations*.

Mr. LACHANCE: Mr. Chairman, Mr. Émard is not here, and I do not know why. I presume Mr. Walker will move an amendment. This would probably call for Mr. Émard to withdraw the proposed amendment that has been tabled. I just wondered if the amendment was ever moved? I know it was tabled.

The JOINT CHAIRMAN (*Mr. Richard*): It was tabled, Mr. Lachance.

I do think that it would be the wish of the Committee to carry on to the point of finalizing this matter. Mr. Émard will be here at a later date. We could start discussing the suggestions.

Mr. LACHANCE: I was just trying to find out if the Committee would have another chance to study it.

The JOINT CHAIRMAN (*Mr. Richard*): At the present time I think we should proceed in that order.

Mr. WALKER: Mr. Chairman, again we discussed this last night. One of the questions that arose in connection with clause 5(b)...

The JOINT CHAIRMAN (*Mr. Richard*): One moment, please, Mr. Walker. Do you have a copy of the amendment for everybody this morning?

Mr. WALKER: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Do all the members have a copy of the suggested amendment to clause 26?

Mr. WALKER: There was some concern expressed last night about how clause 5(b) would be operative, and at that time, if you remember, I suggested that clause 32 in the bill would then take over and operate in the regular manner. If I cannot express it clearly perhaps we can have Mr. Roddick explain it.

Clause 32 depends on clause 26(4). Clause 5 nullifies, the effect of subclause 4 of clause 26 on clause 22, and when that happens then clause 32 is totally operative at whatever period of time. It has nothing to do with the initial period, or anything else. I understand that this roundabout way of doing it has been suggested by the legal advise so that the clauses have some meaning to one another and are hooked up to each other.

Perhaps only those who were here last night will know what I am talking about, but I am assured that the new subclause 5 that has been inserted in clause 26 does, in fact, carry out the principle we were discussing last night.

There is one correction that has been made in the sheets you received last night. At the end of clause 5(a), where there was a period, I understand there is now a comma.

Mr. P. M. Roddick (*Secretary of the Preparatory Committee on Collective Bargaining*): Yes, Mr. Chairman; and there has been one other slight change, too, in relation to the piece of paper which, I believe, Mr. Walker showed you last night. The phrase "for that reason" in 5(b) has been substituted for the phrase "on the ground". The change is that in the third line of (b) the phrase "for that reason" is replacing the phrase "on that ground" which was on the piece of paper shown to you last night.

Mr. WALKER: It seems to be a more specific description.

Mr. LEWIS: I was not here last night. Which piece of paper are we talking about?

The JOINT CHAIRMAN (*Mr. Richard*): Page 3, subclause (v).

Mr. LEWIS: This new clause 26?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. The only change is that at the end of subclause (a) there is a comma where there was a period.

Senator MACKENZIE: Is "and" included after the comma, as was suggested last night?

Dr. DAVIDSON: The word "and" should be at the very end of subclause (a).

Senator MACKENZIE: Thank you very much.

Mr. LACHANCE: If I understand correctly, instead of "on that ground" it would be "for that reason"? To what is it referring?

Dr. DAVIDSON: "For that reason" ties up, Mr. Lachance, with the expression "for that reason" in the third line from the bottom of subclause (a).

Mr. LACHANCE: I know; but you are replacing "on that ground" for what reason? To what exactly does it refer?

Dr. DAVIDSON: On the ground that such a bargaining unit would not permit satisfactory representation of employees included therein. That is the reason that is given. That is the reason that is alleged.

Mr. LACHANCE: The reason is on the ground that such a bargaining unit would not permit such representation?

Dr. DAVIDSON: That is correct.

Mr. WALKER: Is there any discussion?

Mr. LACHANCE: Yes, I was going to ask for a change on the ground of representation.

Mr. KNOWLES: This is where the discussion arose last night. It is not on the record, and I think that it would be useful to have a statement by one of the witnesses on the record, explaining what this does mean.

Dr. Davidson seems to be ready.

Dr. DAVIDSON: I am never ready, Mr. Chairman.

Mr. KNOWLES: Go ahead, anyhow.

Dr. DAVIDSON: If it is the wish of the Committee, I will be very glad to give an explanation of what we have tried to accomplish here.

It will be recalled that from time to time there has been some concern expressed by different members of the Committee about the issue that is raised by this clause, and Mr. Émard has, on at least two occasions, put forward a position of a group within a bargaining unit that did not feel that the proposed bargaining unit was constructed in a way that would adequately represent its formulation that was designed to make some provision for the recognition of the concerns and aspirations within the bargaining unit.

We have had a variety of ways suggested for meeting this, but, frankly, we have not found any that we have considered entirely satisfactory. The best that we have been able to do is to introduce this provision which has the following effect: As members know, clause 32 of the bill is the provision that governs the normal procedures by which the Public Service Staff Relations Board will certify bargaining units. Normal procedure calls for the Public Service Staff Relations Board to have the authority to certify a bargaining unit on any ground that seems good to it, provided that it does not cross the category boundary lines and provided that it takes account of the duties and qualifications attaching to the positions that are comprised in the bargaining unit. That is the basic, long-term direction that is given to the Public Service Staff Relations Board in connection with certification.

Clause 26 of the bill provides that, for the initial period only, the Public Service Staff Relations Board is restricted to certifying bargaining units on the basis of predetermined occupational groups, and this clause that we are now suggesting by way of an amendment permits the Public Service Staff Relations Board, under certain circumstances, when an objection is raised to the appropriateness of a bargaining unit in the initial period based upon the predetermined occupational groups, to set aside the provisions of the interim arrangement contained in clause 26 in order to allow the normal procedures that the Public Service Staff Relations Board will eventually follow, as set out in clause 32, to prevail.

The circumstances under which the Public Service Staff Relations Board may set aside this interim provision, which ties certification to predetermined occupational groups, are limited to a situation in which an employee organization files an objection to the proposed bargaining unit based upon an occupational group and alleges that such a bargaining unit would not permit satisfactory representation of the employees included in the proposed bargaining unit. If that is alleged by an employee organization, and if the board is satisfied that the objection is well grounded, the board may then say—and this is in the discretion and judgment of the board—that they accept the argument that the proposed bargaining unit would not constitute a unit of employees appropriate for collective bargaining, in which case they can set aside the provisions of clause 26 and allow the provisions of clause 32 to apply.

The effect of this would be that the Public Service Staff Relations Board would, under those circumstances, be free to certify a unit as appropriate for collective bargaining, without reference to the predetermined occupational group that is imposed on the Public Service Staff Relations Board by virtue of clause 26.

Mr. CHATTERTON: What about the different categories?

Dr. DAVIDSON: It could not, even under those circumstances, move across the category boundaries.

Mr. KNOWLES: Where is the language, either in clauses 26 or 32, that makes it clear that in that circumstance clause 32 takes precedence?

Dr. DAVIDSON: Mr. Chairman, if I may say so, it depends on the construction of the legislation. The legislation sets out, in clause 29 and following, the procedures by which application for certification is made; and clause 32, as set out in the bill, prescribes the normal procedure. Clause 26, as you can see, I think, from the section in the printed bill—but you can see it better from the clause that you have before you—provides for an interim arrangement covering the first period of collective bargaining only; and clause 26, as is clear from the opening words, and from subclause 4, which is the critical one—clause 26(4) says:

During the initial certification period a unit of employees may be determined by the board as a unit appropriate for collective bargaining only if that unit is comprised of all of the employees in an occupational group—

and so on. Now, it is that provision, and that provision only, which interferes, in the initial certification period, with the normal application of clause 32. Therefore, by providing in subclause 5 that subclause 4 does not apply—if the board so decides during the initial certification period—this leaves the way open for clause 32 to apply in the normal way.

Mr. LEWIS: Would you look at clause 29, Dr. Davidson?

The JOINT CHAIRMAN (*Mr. Richard*): Clause 29 has been deleted.

Mr. KNOWLES: I have one other question on clause 32. There is a reference in clause 32(1) to subclause 3 of clause 26. Does that still apply?

Dr. DAVIDSON: It has been changed to subclause 4, Mr. Knowles.

Mr. KNOWLES: We did that on a previous run?

Dr. DAVIDSON: Previously.

Mr. KNOWLES: And fits the new 4?

Dr. DAVIDSON: That is right.

Mr. LEWIS: Mr. Chairman, I am at a disadvantage because I could not be here last night, but what is the timing for the application of clause 32? What you had in the old clause 26 was the preliminary period where the bargaining units were established, and, following that, organizations made application for certification. In a situation where the preliminary unit does not make application, and you have no bargaining unit, what happens to the schedules, say, when collective bargaining starts, and at what time does an organization apply for certification? This is the circumstance where you have no bargaining unit.

Dr. DAVIDSON: The initial application would still be made.

Mr. LEWIS: When?

Dr. DAVIDSON: Immediately; as soon as the cycle permits application for recognition to be made by a particular occupational category.

Mr. LEWIS: I am sure it is my fault, Dr. Davidson, but I just do not understand. If you have no bargaining unit at all when does the cycle start?

Mr. P. M. Roddick (*Treasury Board*): If I may interject. Dr. Davidson, clause 26 deals with several distinct things. Clause 26(4), as Dr. Davidson has said, places an inhibition upon the board in exercising its authority under clause 32. Clause 26(5) now permits the board to take that inhibition off. But if we move on to subclause 6 we find that it still provides for a timetable of the introduction, category by category, into bargaining, and there is no way in which that can be set aside. In other words, the time-scheduling provisions are in no way altered by what has been done with respect to the determination of bargaining units.

Mr. LEWIS: Perhaps you will overrule this, Mr. Chairman, but subclause 6(a) says:

Notice to bargain collectively may be given in respect of a bargaining unit comprised of employees—

...and so on. I had understood had the bargaining you had in mind was a bargaining unit predetermined. Which bargaining unit is someone going to give notice to bargain about, if there has been no determination of a bargaining unit?

Mr. RODDICK: Mr. Chairman, the wording of clause 26 is:

—a bargaining unit comprised of employees included in that occupational category—

It does not refer to employees included in an occupational group.

Mr. LEWIS: Well, with great respect, Mr. Roddick, that is not the point at all. In order to give notice to bargain there has got to be an established bargaining unit. In the previous section the bargaining unit was established by the board. How can any bargaining agent give notice to bargain with respect to a bargaining unit that has not yet been defined.

Mr. RODDICK: Mr. Chairman, I think it might be useful, in relation to what is a fairly complex process, to try to contemplate the situation that will occur. The

limitations on the board here are in relation only to the determination of bargaining units. There is no limitation on any organization applying for certification for a bargaining unit which they themselves propose. In no place in the bill is there any inhibition on that.

Mr. LEWIS: I understand that.

Mr. RODDICK: Now, in the circumstance that is provided for by subclause 5 we can assume that two different things may happen. First of all, an organization may, in fact, apply for a unit that conforms to the requirements of subclause 26(4) and in that case subclause (5) permits another organization, with employees in that occupational group that is proposed to be a bargaining unit, to intervene and object. The board would then hear the objection and either accept it or reject it. If they accept the objection that means that the unit that was proposed, that was consistent with subclause 26(4), has been set aside and that there has to be a proposal for a different kind of unit. That is one model.

Mr. LEWIS: Excuse me; I think I can understand better if I interrupt you at this point. If the board accepts the objection then you do not have a bargaining unit?

Mr. RODDICK: Mr. Chairman, if the board accepts the objection the clause that then comes into play is 32(4) which says:

for the purposes of this Act a unit of employees may be determined by the Board to constitute a unit appropriate for collective bargaining whether or not its composition is identical with the group of employees in respect of which application for certification was made.

Mr. LEWIS: I appreciate that. The point I am making is that you have, say, 67 bargaining units proposed to be predetermined by the board under clause 26. In one of the 67 units there is an objection. Therefore, you have 66 bargaining units determined by the board, and a group of employees who are no longer a bargaining unit, if the board accepts the objection. So that for those employees there is, at that point, no bargaining unit.

Mr. RODDICK: I am sorry, Mr. Chairman—

Mr. LEWIS: Is that not right?

Mr. RODDICK: You seem to say, Mr. Lewis, that 67 or 66 units were determined by the board. No unit is ever determined by the board until an application has been duly processed. There is no determination except in the processes relating to applications and hearings and the certification itself.

Mr. CHATTERTON: What happens if a certain group does not apply.

Mr. LEWIS: There is no unit.

Mr. RODDICK: Until somebody applies no unit exists. In other words, clause 26(4) provides only a certain framework within which the board is obliged to act, if and when anybody applies. If nobody applies during the initial period, at a certain point in time that framework disappears and therefore they are no longer inhibited by it. Clause 26(4) has no significance at all unless there is an application for certification before the board.

Mr. LACHANCE: Would you not say that (3) should come after (4), as a matter of timing?

An hon. MEMBER: No.

Mr. RODDICK: Mr. Chairman, if I may, I would like to add the other model that I wanted to describe for Mr. Lewis. The one I mentioned was in a situation where the initial proposal is for one of these units that the board may determine under clause 26(4).

There could be a proposal for a unit that is not one of these units; for a unit, we will say, that is half one of those units—half in one way or another.

An hon. MEMBER: Or two of them.

Mr. RODDICK: Yes; or, alternatively, two of them; or that cuts across three of them, in some peculiar and particular fashion. It would be quite legitimate for an association to make an application for such a unit and to couple with that application an objection to the units that may be determined under clause 26(4). In that circumstance the objection would have to be heard. If it is sustained, the board then reverts to its authority under clause 32 and would consider the application before it.

Mr. CHATTERTON: Is there a limit to the time within which this objection must be filed?

Mr. RODDICK: Mr. Chairman, those of us who are concerned with trying to help the future Public Service Staff Relations Board have its regulations ready in good time have contemplated that the regulations would be written in such a way as to indicate that where the proposal for a unit was not consistent with clause 26(4) the regulations would place an obligation upon the applicant to make an objection; to couple his application with an objection; and the regulations would then also impose upon the board the necessity of disposing of the objection before coming to the problem of the application itself.

Mr. LACHANCE: Mr. Chairman, after going through the process of subclauses (4) and (5), let us say that the board accepts the objection. We then return to clause 32?

An hon. MEMBER: That is correct.

Mr. LACHANCE: And the board on the basis of clause 32, would have to take into consideration the objection that was filed?

Mr. RODDICK: Mr. Chairman, I have no doubt that in some degree the board would be influenced by the proceedings that went on in relation to the objection; but I would have to add that the board is empowered by clause 32 to take anything into account, including whatever was said in respect of that objection.

Dr. DAVIDSON: And there would be no obligation on the board—

Mr. LACHANCE: No; but it would have to—

Dr. DAVIDSON:—in certifying under clause 32, to recognize any particular claim of the group that had intervened and filed an objection to the application of clause 26.

Mr. LACHANCE: But, to be logical, the board would have to take that into consideration.

Dr. DAVIDSON: There is nothing in the law, Mr. Lachance, that requires the board to be logical.

Mr. RODDICK: Mr. Chairman, I think we could contemplate a situation in which a particular unit is proposed, an objection is put in and an argument is made that the board accepts; but having accepted the argument does not necessarily mean that, when they come to look at the unit that is proposed, the grounds that sustained the objection will also sustain the determination of the proposed unit. In other words, there could be a gap between the proposed unit and the arguments that were advanced in relation to the objection.

Mr. WALKER: Mr. Chairman, perhaps this simplifies it too much, but really what is happening is that we are moving forward the authority of the board, which they will have in a certain number of months anyhow, to designate units which, in their judgment, provide satisfactory representation. They can make that designation right from the beginning, in spite of clause 26(4), if there is an application to do so and they think that it should be done, and all we have done is to advance the date for the authority of the board to act contrary to clause 26(4). Is that correct?

Mr. RODDICK: That is correct.

Mr. WALKER: That is all that has been done. We are advancing the date for the board to have the authority to act other than under clause 26(4), which they are going to have later on anyhow.

Mr. LACHANCE: I am just wondering if it would be normal to have, after subclause 5 (a), a clause to the effect that whenever subclause 5 takes effect the board reverts to the application of clause 32.

Dr. DAVIDSON: It does not need to say so.

Mr. LACHANCE: I hope that it does not need to say so.

Dr. DAVIDSON: Our legal officers assure us that it does not need to say so and I can add that our legal officers are already rather uncomfortable about the fact that we already have added words in subclause 5 (a)—which are unnecessary, in their opinion—merely for the purpose of clarifying the position. I think that there is a certain point where they would become very uncomfortable about putting in additional words, which they do not regard as necessary, merely for the purpose of spelling out in detail—

Mr. LACHANCE: Can we assume that if subclause 5 takes effect clause 32 automatically comes into it.

Dr. DAVIDSON: I give the Committee the unqualified assurance, based on the views expressed to me by the legal officers, that the effect of subclause 5 is that if the board takes the decision that is contemplated in subclause 5 (b) the procedures set out in clause 32 automatically replace the provisions which are set out in clause 26 even during the initial certification period.

The JOINT CHAIRMAN (*Mr. Richard*): I suppose if any amended rules could have been made it would have been to clause 32(4) to make sure they acted on clause 32(4) in accordance with subclause 5. That would have been more logical.

Mr. LACHANCE: Dr. Davidson says that it automatically comes under clause 32.

Mr. BELL (*Carleton*): There is a very clear statement now on the record.

Mr. LACHANCE: Yes, there is.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on the proposed amendments?

Mr. CHATTERTON: The board initially certifies the unit only on receipt of an application.

Dr. DAVIDSON: That is right.

Mr. CHATTERTON: In effect, the application can refer only to the predetermined unit?

Dr. DAVIDSON: No, sir.

Mr. CHATTERTON: The initial application did not conform to the groups as established.

Dr. DAVIDSON: An initial application, during the initial certification period, can be an application made by a would-be bargaining agent on behalf of any bargaining unit that he proposes. Before the amendment that we are now discussing was under consideration, the board, under those circumstances, would have had no authority to consider for a moment an application that did not conform to the predetermined bargaining unit in the initial certification period. Now an application that does not conform to a proposed predetermined bargaining unit is not automatically disqualified if the applicant, in filing that application that does not conform to the boundary lines of the proposed occupational group or bargaining unit, files, at the same time, an objection.

Mr. CHATTERTON: But he has to file an objection at the same time.

Dr. DAVIDSON: Yes.

Mr. CHATTERTON: Suppose that he just files an application for the unit which does not conform to the predetermined one?

Dr. DAVIDSON: If he files an application that does not conform to the proposed bargaining unit, and does not at the same time file an objection of any kind clause 26 applies; because he has merely made an application and has not argued that the bargaining unit based upon the occupational group is not a suitable one. The Public Service Staff Relations Board, under those circumstances, in the absence of any statement of objection, would proceed to disqualify that application and to require an application to be made that conforms to the proposed bargaining unit.

Mr. CHATTERTON: How can it require? You cannot insist that another application be filed?

Dr. DAVIDSON: No; but the Public Service Staff Relations Board is bound by the provisions of clause 26 during the initial certification period, unless the applicant organization conforms to the requirement of subclause 5. Subclause 5 is merely brought into play when an employee organization, at the time of making an application in respect of a bargaining unit, files with the board an objection to the determination of a bargaining unit under the normal clause 26 rules. If they do that, it is a new ball game.

If they merely file an application for 10 employees in an occupational group that is a predetermined bargaining unit and offer no argument, file no objection of any kind and do not invoke the provisions of subclause 5, then the Public Service Staff Relations Board would proceed in the normal way to deal with that

application. The "normal way" means that they would have to refuse to accept that application because it does not conform to what the board is required to accept under clause 26 in its normal operation.

Mr. CHATTERTON: Can the board, on receipt of application with an objection, certify a unit which does not conform to the application accompanied by the objection, even though the unit which it wants to certify does not conform to that predetermined?

Mr. RODDICK: Mr. Chairman, as I think we have reiterated several times, the effect of this proposal is merely to remove from the board—that is, where an objection is sustained—the inhibition provided by clause 26(4) and to permit clause 32 to apply.

Now, when we talk about a proposed bargaining unit, a proposed bargaining unit has to take into account the people who are going to be managerial exclusions, and it covers a good deal more than merely a prescription of people in a certain place or of a certain class. Therefore, there is normally expectation, in relation to application, that the boundaries of the unit will change a bit in relation to the initial proposition, and I suppose there is nothing to stop this change going on by some kind of exchange between the board and the applicant in which the applicant says: "I am willing to propose a bit of a different unit if you will accept that as appropriate." Therefore, it is decided at some point that this is the appropriate unit, and at that point they start to find out whether they meet the test.

I would like to say one more word in addition to what Dr. Davidson has said. Under the Act as it is written, and under the amendment as proposed, an application can be made in respect of any unit, and it is a legitimate application. I think the board says: "We are unable to proceed with this application because we are inhibited in our determination unless, of course, you are going to file an objection; in which case we then will consider the objection and if it is sustained the inhibition is off and we are free to consider another kind of unit."

Mr. CHATTERTON: The application must necessarily object to the predetermined unit?

Mr. RODDICK: To one or other or several of the units that the board is obliged to use under clause 26(4).

Mr. CHATTERTON: Can the board certify a unit which does not conform to the application coupled with the objection, and does not conform to the unit as predetermined?

Mr. RODDICK: Mr. Chairman, it can, but only if the applicant is willing to propose such a unit. The board cannot certify a unit in respect of which no application exists.

Mr. CHATTERTON: Therefore, if the applicant does not wish to change his application—

Mr. RODDICK: That is correct.

Mr. LEWIS: In the context of clause 32(4) they can make a unit which is not identical with a group of employees in respect of which an application is made.

Dr. DAVIDSON: Yes; but, Mr. Lewis, I think Mr. Roddick's point is that the board cannot impose on an applicant changes in its original application that are

so drastic that the result would be that the applicant would be unwilling to continue as a representative of the revised bargaining unit.

Mr. LEWIS: I am not so sure. Clause 32(4) says that the board in determining a unit may determine, (1):

—whether or not its composition is identical with the group of employees in respect of which application for certification was made.

The board has the right to determine the bargaining unit under clause 32(4) in any way it sees fit.

Mr. RODDICK: Mr. Chairman, I think that technically Mr. Lewis is right, but I would also suggest that an applicant has a right, in the course of natural justice, to withdraw his application at any point; and if the unit that the board was proposing to determine was a unit that he said he could not possibly consider representing he would then withdraw his application and all bets would be off.

Mr. CHATTERTON: I know that in certain areas there is a lot of dissatisfaction with the proposed groups. Is it conceivable that a number of groups will never be certified?

Dr. DAVIDSON: Yes.

Mr. CHATTERTON: What happens then? Does the Treasury Board simply makes a decision on those points which normally would be negotiable?

Dr. DAVIDSON: If there is no bargaining agent or bargaining unit, for a group then obviously there can be no collective bargaining.

Mr. CHATTERTON: Then the Treasury Board simply decides for that particular group?

Dr. DAVIDSON: It has to.

Mr. McCLEAVE: Mr. Chairman, I would like to ask Dr. Davidson a question.

I take it, with regard to the shipyard repair classification, that the board itself could decide that the Esquimalt and Halifax dockyards be considered separately for the purpose of collective bargaining, or that those two dockyard councils themselves each could make application to be considered as separate bargaining units under subclause 5?

Dr. DAVIDSON: Under this subclause 5 it would be open to an employee organization, representing, let us say, a portion of this proposed occupational group, to file an application, to represent a group of employees that it is interested in and to file an objection—they have to do that—to the normal procedures contemplated in the initial certification period under clause 26. It has to base its objection and its claim on the ground that the proposed total bargaining unit would not permit satisfactory representation of the employees included therein.

Mr. McCLEAVE: Dr. Davidson, is it not also a fact that under the previous subsections the board itself could anticipate the geographical problem that would arise between Esquimalt and Halifax dockyards and that they would be allowed to set up separate bargaining units—one on the east coast and one on the west coast.

Dr. DAVIDSON: Not during the initial certification period, no.

Mr. CHATTERTON: Just one moment. I think you have answered this before, but I want to make sure. Let us say that in the case of this ship repair group to which Mr. McCleave has referred, the board refuses to certify separate groups for Esquimalt and Halifax. Finally they submit application and the board certifies one unit which includes the shipyard workers and the repair workers in both shipyards. It is possible under the negotiating procedures to establish a rate of pay for Esquimalt workers different from that of the Halifax workers. It is possible for the board to make such a determination, or for the abitation, or negotiation?

Mr. MCCLEAVE: For the bargaining?

Dr. DAVIDSON: For the bargaining. This is a matter of substance which is dealt with in bargaining, and I suppose one can say that almost anything which is agreed to by parties to the bargaining is possible.

Mr. CHATTERTON: I can never see that happening.

Dr. DAVIDSON: You said that. I did not.

Mr. MCCLEAVE: I think I see your point, because under subclause 4(a) the unit must include all the employees within an occupational group.

Dr. DAVIDSON: That is correct. Unless subclause 5 is—

Mr. MCCLEAVE: Unless they invoke that; but this at their initiative and not at the initiative of the board.

Dr. DAVIDSON: That is correct.

Mr. WALKER: Mr. Chairman, is there a small amendment in schedule B or schedule D?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. RODDICK: Mr. Chairman, there are two amendments—

The JOINT CHAIRMAN (*Mr. Richard*): Order!

Mr. CHATTERTON: Mr. Chairman, before we go on I would like to make a comment. One of my objections has been with regard to clause 26. It depends now, it seems to me, as to the manner in which the board will operate, the opportunity is there now for these people to apply initially for a bargaining unit which would be separate from the one proposed.

Dr. DAVIDSON: I do not want to mislead the committee on this part, Mr. Chairman and Mr. Chatterton. It would be a mistake to assume that any group for any reason could apply the procedure which is set out under section 26, and that the Board could decide this merely on a whim. The grounds on which you can invoke subclause (5) are the grounds set out in the provision itself. Those grounds are, that a bargaining unit based upon an occupational group concept would not permit satisfactory representation of the employees included therein. Now, I confess I do not know all the considerations that would enter the board's mind, but the board, on the basis of what it heard, would have to be satisfied that the bargaining unit based upon the occupational group concept would not permit satisfactory representation. This is not a question of our not liking the bargaining unit; there are a lot of other grounds that could be alleged. However, it has to be substantiated that the bargaining unit that is based upon the concept of the

total occupational group would not permit satisfactory representation. If that can be substantiated, the board can then set aside clause 26. Unless the board is satisfied on that ground and on that ground alone, then it is bound to follow the procedure set out in clause 26 during the initial certification period.

(Translation)

Mr. ÉMARD: Mr. Chairman, at last evening's meeting, we were told that Clause 26, subsection 5, could replace the amendment which my colleague, Mr. Lachance, and I had suggested. I am trying to make some kind of a link between the amendment as we proposed it and the Clause in question, and it is very difficult for me. I do not want to complain without reason, but for a month now, we have been waiting for this amendment, and this morning, we are faced with an amendment drawn up exclusively in English. It is very difficult for me, not being a lawyer, to try to understand this legal terminology, having it only in English. You can imagine the efforts I have to make in order to try to interpret what you are trying to do. My learned colleagues, who are lawyers, tell me that this will approximately have the same effect as the amendment we presented. I am trying to follow the discussions as best I can and I find that the discussions which took place this morning have not satisfied me, have not enlightened me fully so that I don't know whether what is being submitted here would really replace the amendment, or would be in the spirit of the amendment we presented. Should I ask for an extension, a postponement, before adopting the bill, or should I rely on what has been told me to the effect that this amendment has approximately the same intent as the amendment we presented? I really do not know what to do.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, I understand your difficulty, and I do not want you to not have the opportunity of being able to understand the text of this proposed amendment. On the other hand, I think that you can, of course, exercise the right at all times, in the House of Commons for instance, to raise any objection you might have to the amendment should this Committee decide to pass it. I am in the hands of the Committee.

Mr. LACHANCE: I understand Mr. Émard's fears. Personally, I hesitate to accept this amendment, in the light of the amendment which Mr. Émard and I had drafted and intended to submit to the Committee. However, if I can take the liberty of doing so, I would tell Mr. Émard that in Clause 26 originally, there was no provision to allow, at the initial stage, the initial certification stage, to make any objections. Neither Clause 32 nor the Bill allowed for objections in the initial stage.

The JOINT CHAIRMAN (*Mr. Richard*): Nor to make any other applications.

Mr. LACHANCE: Yes, to make any other applications, or to allow the Board to hear objections from various categories of employees. With this amendment, and with the explanations which Doctor Davidson and his assistants have given us, it is understood that in the initial phase, during the initial certification period, the Board has the power to accept objections and to change, and cut groupings to pieces, so to speak, or to combine them. The object of the amendment which Mr. Émard and I had intended to submit was particularly to ask the Board whether it would be possible to split up the units in certain circumstances. In the present case, sub-clause 5, to my mind, allows this. Perhaps it does not comply with

everything Mr. Émard and I wanted in the amendment, but it leaves the door open at the initial certification period. This was the main object, I think, of the amendment which we had been proposing. At this stage, I am satisfied.

Senator BOURGET: If I understood Mr. Émard's amendment correctly, I think his main object was to force the Board to recognize a group of employees which lived in a certain region, Montreal, for instance, and in this amendment, we have before us, the Board is not so obliged. This, to my mind, is the essential difference existing between the amendment as proposed by Mr. Émard and the proposal made in sub-clause 5 under the new Clause 26.

The JOINT CHAIRMAN (*Mr. Richard*): Is that it, Mr. Émard? The new Clause 26?

Mr. ÉMARD: That is precisely the point I wanted to make.

Senator BOURGET: That is it. Now the Board is not obliged. But you will have occasions where a group of employees will make representations to the Board. And if the Board is satisfied well, then, they can be appointed as bargaining agents.

Mr. ÉMARD: Mr. Chairman, throughout the bill we are giving the right to file objections. From just looking at most clauses, you can see that there is a right to make objections, but I am wondering, in practice, where this is going to lead. This is what counts. We can make objections even though we have no right to do so, but just where is this going to lead us? These objections that are going to be filed this is what is important. Several clauses of the Bill give the right to file certain objections, but there is always a clause saying that the Board can do what it wants. When I say "we", I mean the employees, the associations, the organizations, have to follow such and such a procedure, but on the other hand, the Board has complete discretion to do what it wants. There is absolutely nothing being forced upon it. Perhaps in legal terms this appears right, but in the past I have had too much experience to know and see exactly what goes on in practice. Good experience is precisely going to see what the Canadian Labour Relations Board does about differences in groups. You can present all the objections you want, but when the Board has decided on one thing, it then follows the precedents it has itself established over the years. I am not a lawyer, and I am not in a position to be able to refute what is being brought out. In addition to that, I am not sure I would be supported if I proposed the amendment that we presented before or presented in another way? I shall let those who have the responsibility for the Bill decide this and see to it that the organizations are fairly treated, that they have rights which will defend their own interests. However, the principle is still there. I think that in some cases it should be specified that the Board must do such and such a thing; that is, in certain particular cases as in this particular case, I think the Board should recognize the objections, and not only recognize them, but do something about them, too, in the case of certification.

Mr. LACHANCE: Mr. Chairman, in view of the fact that I associated myself with Mr. Émard in objections or in representations, I think that the Board should know, by reading the Committee's proceedings, at any rate, that at least it is Mr. Émard's hope and my own hope personally, that the Board will act broadly in consideration and accepting objections which are filed. They should

not only consider this act in the strict sense, but rather in the broad sense. It would be useless to present this amendment if the Board did not accept taking this amendment into consideration in its widest sense. This exists in the Canada Labour Relations Board Act but it is not very widely applied. That is the reason why we consider that it should be accepted in its widest possible sense.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments? Clause 26(5) is proposed by Mr. Walker and seconded by Senator MacKenzie.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

- (a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining,
- (b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

Mr. WALKER: Well, Mr. Chairman, I do not know if either Mr. Émard or Mr. Lachance, who were originally concerned with this problem, wish to be associated with this, but I would certainly be happy to have it moved by Mr. Lachance and seconded by Mr. Émard, if that is what you want to do.

Mr. LACHANCE: I will do it, unless Mr. Émard would prefer to do it.

Mr. WALKER: If Mr. Émard will move this, Mr. Chairman—

Mr. ÉMARD: I will.

Mr. WALKER: —I will be happy to second it.

The JOINT CHAIRMAN (*Mr. Richard*): I think Mr. Walker seconded by Mr. Lachance would be quite agreeable.

Mr. WALKER: We have been passing these privileges around very freely in this committee.

Mr. LACHANCE: Well, I am going to give my place to Mr. Émard to watch, but I am very happy to do it.

Mr. WALKER: Mr. Chairman, I move, and it is seconded by Mr. Lachance, that clause 26 as it is now in the bill be withdrawn and that there be substituted therefor this new clause 26. Let us be very clear about the changes. There is the substitution of the words “for that reason” in place of the words “on the ground”, in subclause (a) and also in subclause (b).

An hon. MEMBER: No, no.

Mr. WALKER: Oh, excuse me, subclause (b) only.

The JOINT CHAIRMAN (*Mr. Richard*): And the word “and” is to be inserted at the end of subclause (a).

Mr. LACHANCE: And the comma.

The JOINT CHAIRMAN (*Mr. Richard*): Well, the comma is there now.

Mr. LACHANCE: No, it was a period.

The JOINT CHAIRMAN (*Mr. Richard*): It was a period last night, but it is a comma today.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

Mr. ÉMARD: Once again, Mr. Chairman, I would like to say that in my own particular case, I do not think I have been given every chance. You will have to understand I am not a lawyer and it is very difficult for me to interpret legal language which I consider to be very complicated. And in addition, you only gave me an English copy of the amendment, which makes it even more difficult for me. I want to accept the decision that has been taken, of course, but we had to wait for nearly a month to see what Treasury Board was going to come up with, or to see the type of amendment which was going to be brought in instead of the amendment I submitted. You presented this last night at nine o'clock, and this morning we came in. I did not have time, either, to contact other lawyers. I would have wanted to find out the exact meaning of this. I will accept it but, without knowing too much what I am accepting.

The JOINT CHAIRMAN (*Mr. Richard*): With reservations.

(*English*)

Mr. RODDICK: Mr. Chairman, there are two technical amendments which are related to clause 26, if you would like to deal with these at this time.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. RODDICK: One of them relates to Schedule B, which is a schedule created in order to provide for the application, I believe, of clause 26(6). The date in Column I of Schedule B opposite "Operational Category" in the amendment that has been passed by the Committee reads January 31, 1967. This will be a dead date very soon, and after discussions with the legal draftsmen it was suggested that this be amended to read February 28, 1967, which is one month later, and an amendment has been prepared to this effect and it is attached to the document.

The JOINT CHAIRMAN (*Mr. Richard*): Does the amendment to Schedule B carry?

Mr. CHATTERTON: Column II of Schedule B reads:

Day after which collective agreements may be entered into or arbitral award rendered.

Let us suppose that event does not take place until late in 1967, does the date in Column III still apply?

Mr. RODDICK: The dates in the columns are prohibitions and the items that are identified at the top may not take place before that date, but they may take place any time after that. Because of the way the legislation is constructed we have to have a date of some kind in each of the slots.

Mr. CHATTERTON: But the date in the last column would apply in any event?

Mr. RODDICK: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Does the schedule as amended carry?

Some hon. MEMBERS: Agreed.

Schedule B carried.

Mr. RODDICK: Mr. Chairman, the second technical problem arises from changing that date from January 31, 1967 to February 28, 1967. An amendment to clause 72 was passed by the Committee which provided that during the initial certification period an arbitral award could take effect retroactively four months prior to the date set out in Column I, and that amendment was passed in order to permit the government to honour a commitment in relation to pay review dates. Having changed that date, we now have the awkward situation where four months prior to February 28 would permit the arbitration tribunal to make an award retroactive in respect of the operational category only to November 1. Therefore, in order to correct this it is proposed to tie this clause 72 to Column II. You will notice that the difference between the dates in Column I and Column II are always 60 days. The dates in Column I, which shows the dates after which notice to bargain can be given, are always 60 days in advance of the dates specified in Column II. It is therefore proposed to link this clause to Column II and to identify the number of months as six before the day specified in Column II, rather than four months before the day specified in Column I. That does not sound like a very adequate explanation, but I hope you understand it.

Mr. LANGLOIS: It is not always 60 days on your schedule.

Dr. DAVIDSON: It was before.

Mr. LANGLOIS: Because February 28 to March 31 is not exactly 60 days.

Mr. RODDICK: Not exactly, but the effect will be, if we accept this amendment to take it back in each case to the pay review date, which is our objective.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments?

Mr. RODDICK: No.

The JOINT CHAIRMAN (*Mr. Richard*): We now return to clause 28. It was moved by Mr. Walker seconded by Mr. Chatwood:

That clause 28 of the said bill be amended

(a) by striking out lines 3 and 4 on page 15 thereof and substituting the following:

tions, the council so formed may, subject to *section 30*, apply in the manner prescribed to the Board for certi-

(b) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent.

and

(c) by striking out lines 19 and 20 on page 15 and substituting the following:

Council
deemed
to be
employee
organization.

29. A council of employee organizations shall, for all purposes of this Act except subsection (2) of section 28, be deemed

I am not familiar with this amendment.

Mr. RODDICK: Mr. Chairman, it was my understanding that Mr. Émard and Mr. Lachance, in relation to the proposals which they had made, anticipated that there would be an amendment required to clause 28 and it was my understanding that this clause had been stood for that purpose. As the problem has been dealt with in another clause, I would presume that the Committee might wish to proceed by simply passing clause 28.

Mr. LACHANCE: It is the only—

Dr. DAVIDSON: Mr. Chairman, clause 28 was held specifically for the purpose of making certain that we dealt with the concerns of Mr. Émard and Mr. Lachance.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me, Dr. Davidson, this was your material.

Dr. DAVIDSON: But these amendments have been approved.

Mr. RODDICK: I am sorry, the Chairman and the Clerk are quite correct. There was an amendment proposed to clause 28 which was unrelated to Mr. Émard's and Mr. Lachance's proposal and, as I recollect, that matter was dealt with and agreed to, but the passing of the amendment was held up. Therefore, the amendment which was tabled before the Committee, I presume—

The JOINT CHAIRMAN (*Mr. Richard*): Shall the amendment carry?

Mr. LACHANCE: What is it?

The JOINT CHAIRMAN (*Mr. Richard*): At that time it was accepted by you, Mr. Lewis, and the other members of the Committee. but it was—

Mr. RODDICK: Could I run through these slowly again?

Mr. LEWIS: Like yourself, I have forgotten.

Dr. DAVIDSON: The motion is

That clause 28 of the said bill be amended

(a) by striking out lines 3 and 4 on page 15 thereof and substituting the following:

tions, the council so formed may, subject to section 30, apply in the manner prescribed to the board for certi-

The effect of that is merely to eliminate the reference to section 29 which has, in the meantime, been deleted and to limit the reference to section 30 only. It is purely technical. The second amendment is:

(b) by striking out paragraph (b) of subclause (2) thereof and substituting the following:

- (b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge duties and responsibilities of a bargaining agent.

I think the members will recall that that was argued out and this was accepted as being a desirable formulation in replacement of (b) as it stands in the printed text. The third amendment is:

- (c) by striking out lines 19 and 20 on page 15 and substituting the following:

29. A council of employee organizations shall, for all purposes of this Act except subsection (2) of section 28, be deemed

The words "of section 28" are to be inserted in this amendment.

Mr. KNOWLES: This one is numbered 29.

Mr. BELL (*Carleton*): This is to avoid renumbering all the sections of the bill. It is a draftsman's device.

Dr. DAVIDSON: That is correct.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 28 carry?

Clause 28 and new clause 29 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): The next is clause 39(2).

Mr. KNOWLES: Should we deal with the other bill before we go into this one?

The JOINT CHAIRMAN (*Mr. Richard*): Is it directly related? I do not think it is directly related to employees.

Mr. KNOWLES: Should we not let this stand until we have decided on the question of political activity? This is the one that would deny certification to any organization having anything to do with politics.

Dr. DAVIDSON: These two clauses, as I recall, Mr. Chairman, were stood.

The JOINT CHAIRMAN (*Mr. Richard*): As I understand it, this relates to political activity of an organization as against the political activity mentioned in Bill No. C-181. I thought we might dispose of this part of it before going into the other one.

Mr. LEWIS: Mr. Chairman, it may perhaps surprise members of the Committee to hear that I am in favour of organizations of public servants being prohibited from acting on behalf of a political party. Whatever may be the case with other employee organizations, I do not think you can have a public service organization affiliated with or working on behalf of any political party. I agree with this. My difficulty in this connection has always been whether, in principle, this is the right way to deal with it, and whether or not the act should not simply say that an organization shall not do this, rather than saying that the board shall not certify them if they do do this.

Mr. CHATTERTON: What would the penalty be in your proposal if an organization did not desist?

Mr. LACHANCE: They would have to be decertified.

Mr. ÉMARD: What would happen in the case which Mr. Lewis suggests? You just mentioned that an organization is not supposed to do this, but what happens if they still do it?

Mr. LACHANCE: They would have to be decertified.

Mr. ÉMARD: That is why it has been put in this clause.

Mr. LEWIS: Suppose you certify an organization and they do it afterwards; what happens then?

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 39?

Mr. CHATTERTON: What is the answer to that?

Mr. RODDICK: Mr. Chairman, this bill has been drafted many times and I am now searching to find whether the answer to that is in here—I think it is—but I have not yet found it. There was in one draft—I do not know whether it is in this final draft—a provision that a bargaining agent that ceased to fulfill certain conditions, which it was required to fulfill when it was certified, would lose its certification. Now, what those conditions were—

Dr. DAVIDSON: It is clause 42(2).

Mr. RODDICK: You found it?

Dr. DAVIDSON: Yes. It says:

- (2) Where the Board, upon application to the Board by the employer or any employee, determines that a bargaining agent would not, if it were an employee organization applying for certification, be certified by the Board by reason of a prohibition contained in section 39, the Board shall revoke the certification of the bargaining agent.

We have drafted this legislation better than we realize.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on clause 39?

Mr. KNOWLES: Mr. Chairman, I am wondering if it does not go a bit too far in that it draws no line between voluntary contributions of members and the requirement of membership. I have no objection to clause 39(2)(c) but I would be interested in hearing comments from the officials on the fact that it goes further than that.

Mr. LACHANCE: Mr. Chairman, if an employee organization receives a contribution and returns it to the member, there is no problem. I do not think there is any problem about that. But if it does receive or handle such contribution and forwards it to a political party, that is different. That, at least, is the difference to me. You cannot penalize an employee organization which receives such contributions.

Mr. KNOWLES: Mr. Chairman, this is part of the reason I thought this should stand, but I am willing to get it settled now if we decide under the other act that it is legal for civil servants to make contributions to political parties. However, does that not have some bearing on whether or not we permit their organization to handle it? Are you saying that civil service employee organizations that handle money for contribution to the Red Cross could not handle money for contribution to the Liberal party?

The JOINT-CHAIRMAN (*Mr. Richard*): I think that is what the amendment suggests.

(*Translation*)

Mr. ÉMARD: I do not think it is a question of legality in a case like this, but rather a question of principle. I am sure that anyone at all in the organization can give his money to anyone he wants. But do we want employees of the Public Service to be tagged, as belonging to a certain political organization in particular? I think this is what we want to avoid.

Mr. LEWIS: In fact, there is a difference between the member himself and the organization.

The JOINT-CHAIRMAN (*Mr. Richard*): This does not involve the trade-unionists.

(*English*)

The JOINT-CHAIRMAN (*Mr. Richard*): Shall clause 39 carry?

Mr. KNOWLES: On division.

Clause agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): There is a small smendment to clause 17, subclause (2) which was approved last night and which reads as follows:

A secretary of the Board shall be appointed under the provisions of the Public Service Employment Act who shall, subject to the direction of the chairman—

Instead of the words "on the order".

Amendment agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): The only clause left is clause 99, which has to do with regulations respecting grievances. I think Mr. Knowles introduced an amendment.

Mr. KNOWLES: If I did I must have done it for somebody else.

On Clause 99—*Authority of Board to make regulations respecting grievances.*

Dr. DAVIDSON: No, it was Mr. Lewis, I think.

Mr. LEWIS: What was that?

Dr. DAVIDSON: This was the question of the regulation-making power of the board.

Mr. LEWIS: Oh yes.

Dr. DAVIDSON: I do not know whether it is before the members of the committee or not, but we have endeavoured in the text—

Mr. LEWIS: No. You said you were going to redraft this,

Dr. DAVIDSON: —to set out certain types of regulations that the board may make on its own, and other regulations which may—

Mr. RODDICK: I think the request that Mr. Lewis made was to amend the section dealing with regulations relating to grievances in such a way that it

would permit the parties, in effect, to set aside certain provisions in the regulations by a clause in their own agreement. In order to do this it was necessary to take clause 99, which provides authority to the board to make regulations relating to grievances, and break it into two parts in order to separate its regulation-making authority in respect to grievances from its regulation-making authority in respect to adjudication, which is also in there. The consequent proposal that I believe you now have in front of you is that clause 99(1) establishes the authority of the board to make regulations relating to grievances, and subclause (2) says that any regulations made in respect of subclause (1) may, in effect, be modified by a collective agreement. Then we come to subclause (3), which deals with regulations relating to adjudication, and there is no such provision which permits those regulations to be set aside.

The **JOINT CHAIRMAN** (*Mr. Richard*): Are there any comments on the proposed amended clause 99?

Mr. LEWIS: Mr. Chairman, subclause (2), as I read it very rapidly, says that those regulations which are changed in bargaining shall not apply, but the others do. Now, I think what you may have overlooked is that in bargaining the parties may deliberately agree not to have some of the regulations apply.

Mr. RODDICK: I think it would take a very simple provision in a collective agreement to accomplish that purpose, but perhaps I am being naive.

Mr. LEWIS: Well, I am not exactly sure how you would do that. I suppose you could say, "and the regulations of the Board shall not apply to this agreement".

Mr. RODDICK: It is agreed between the parties that we will make our rules as we go along? Perhaps that is a rather oversimplified statement.

Mr. LEWIS: What objection do you have—I am not going to prolong this—to saying in simple language that the regulations made by the board under subclause (1) in relation to the procedure for the provision of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the board and where the collective agreement provides its own grievance procedure, or something like that?

(Translation)

Mr. ÉMARD: If I understand correctly, Mr. Chairman, a Clause in the Collective Agreement takes precedence over the regulations of the Board. Is this what it means?

(English)

Dr. DAVIDSON: That is, in effect, the purpose of this, Mr. Émard. We want to ensure, first of all, that in the absence of any specific provision in collective agreements there is a regime established and a set of procedures set out that will apply. Having done that, we then want to provide that if in a specific collective agreement the bargaining agent and the employer work out, write into the agreement, alternative procedures that they agree shall apply to the grievance processing in respect of that bargaining unit, that those will take precedence and replace the basic provisions that are set out by the board in accordance with subclause (1).

Mr. McCLEAVE: I would say this is very satisfactory.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 99 as amended carry?

Clause 99 as amended agreed to.

On clause 97(2)—*Where no adjudicator name in agreement.*

The JOINT CHAIRMAN (*Mr. Richard*): There is a small grammatical error in clause 97. The word "is" appears twice. Shall that amendment carry?

An hon. MEMBER: What is the new word?

The JOINT CHAIRMAN (*Mr. Richard*): The Clerk tells me that we agreed, last night to parliamentary counsel inserting the right word.

Mr. KNOWLES: I think we should know what it is before we agree. It is on line 43 which reads as follows:

the person whose grievance it is is—

Mr. RODDICK: I am sorry, what is the clause reference?

Mr. KNOWLES: Clause 97(2).

An hon. MEMBER: Page 44, line 43.

Mr. BELL (*Carleton*): "is liable to pay".

Mr. RODDICK: Mr. Chairman, I checked this with the legal draftsman and he regards it as a satisfactory expression of the intent of the legislation, notwithstanding a certain "peculiarization" in style.

Mr. KNOWLES: Could you not say the "grievor"?

Mr. LEWIS: That is too simple.

Mr. KNOWLES: Is there a law against using one word instead of six?

Mr. LEWIS: I suggested that a long time ago.

Mr. RODDICK: I would have no objection to a comma.

The JOINT CHAIRMAN (*Mr. Richard*): It seems to be the consensus of the committee that this type of language is usual in a bill.

Mr. KNOWLES: Mr. Chairman, if there is a difference of opinion between the parliamentary counsel and the law officers that drew the bill I think we at least should know what the decision is, that is all.

The JOINT CHAIRMAN (*Mr. Richard*): I am asking the committee whether it would not be better to leave it the way it is.

Mr. KNOWLES: As "is"?

The JOINT CHAIRMAN (*Mr. Richard*): You know what it means now.

Mr. WALKER: Mr. Chairman, it certainly does not affect the principle that is in the clause. As it is just a question of arguing about grammar, I will concede the drafter the right of using whatever grammar he wishes.

Mr. LEWIS: Could I say, sir, that this always makes me laugh because there is really a very simple way of doing this: "The person who has filed the grievance if liable to pay." or "who has made—"

Mr. McCLEAVE: I do not think it is right that the poor devil who raises the grievance should be saddled with the costs.

Mr. LEWIS: Or "the person who has made the grievance" or "who has filed the grievance is liable" or "who had lodged the grievance is liable".

Dr. DAVIDSON: May I say that we will take this up with the legal draftsmen without any further commitment, Mr. Chairman?

Mr. KNOWLES: Could we consider the possibility of the one word, "grievor"?

The JOINT CHAIRMAN (*Mr. Richard*): Do you really want it changed?

Mr. LEWIS: As a lawyer who has had to try to interpret the work of draftsmen, Dr. Davidson, do not be so tender-hearted about making them uncomfortable. One reason which you gave earlier for not doing something was because you thought it would make them uncomfortable.

Mr. KNOWLES: Hear, hear.

Mr. LEWIS: Which is not a very strong reason.

Mr. BELL (*Carleton*): The task of parliamentarians is to make them uncomfortable.

Mr. KNOWLES: That is right.

Dr. DAVIDSON: I do not mind making the legal branch uncomfortable, but do not make me uncomfortable.

Mr. LEWIS: That is a little stronger reason.

The JOINT CHAIRMAN (*Mr. Richard*): What is before the committee now? Is there a suggestion that we should substitute some words or leave it the way it is?

Mr. LEWIS: I would rather leave it to Dr. Davidson to look at.

Dr. DAVIDSON: I will take this up with the draftsman. Would you agree that if the draftsman is prepared to accept a more graceful wording which would satisfy him, that we are free to insert it without coming back to the committee?

Mr. KNOWLES: Agreed.

Mr. McCLEAVE: Dr. Davidson, would you also ensure that somebody else cannot launch the proceedings on behalf of the person.

Dr. DAVIDSON: Can or cannot?

Mr. McCLEAVE: Cannot. That the fellow who pays the cost must launch the grievance. This is the thing.

Mr. LEWIS: Or authorized it.

Mr. McCLEAVE: Or authorized it, yes.

Mr. RODDICK: This is one of the considerations that I think should be related to some of the substitutions that were thought of.

Dr. DAVIDSON: We will check up on it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 97(2) carry?

Clause 97(2) as amended agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall subclause (1) carry?

Mr. BELL (*Carleton*): Mr. Chairman, before we come to subclause (1), there are a number of matters that I think stand for consideration. I perhaps should

have raised this matter when we were discussing clause 26. I wonder if Dr. Davidson would be prepared to comment on the letter which Mr. Claude Edwards sent to the chairman, which appears at page 990 and which contains the resolution of the Customs and Excise Component, dealing basically with bargaining at the departmental level, a subject on which the final authority is at the departmental level. I know that a considerable number of members have had representations from constituents on this subject and I would like to have a fairly detailed comment from Dr. Davidson on the resolution of the Customs and Excise group and Mr. Edward's letter.

Dr. DAVIDSON: Mr. Chairman, as you will recall, Mr. Edwards was present at the time that letter was presented to the Committee and he was called upon to testify in respect to it. My interpretation of Mr. Edwards' testimony was that the Public Service Alliance was transmitting the views of the Customs and Excise Officers Association for the consideration of the Committee.

I must say that I find some difficulty in reconciling the proposal contained in the Customs and Excise Association's letter, and the concept of a departmental association entering into a bargaining relationship with the employer in a collective bargaining context, with the concepts that we have enshrined in this legislation, which basically provide for occupational groupings as the bargaining units, subject to the qualifications that we have incorporated into clause 26 in the discussions this morning.

There is, so far as I am aware, nothing which would prevent or discourage departmental staff associations from remaining in existence and maintaining a relationship with the deputy heads of their departments, but if you are going to have collective bargaining it seems to me that you would be inviting difficulties, to say the least, if you were to endeavour to divide the subject area of collective bargaining between two bargaining units; one at the centre, which represents the group concerned in its relations with the employer at the centre, and a second and distinctive bargaining unit which would claim jurisdiction to represent the employees on a different basis of composition at the departmental level.

I really do not see how both these concepts can be reconciled in the context of collective bargaining because it would mean that you would have different bargaining units set up for different purposes, dealing with the employer at different levels, and the membership of the bargaining units based upon different grounds. If you make a distinction, however, between the collective bargaining as such that is provided for in this bill, the maintenance of a channel of communication between the departmental staff association that is interested in the well being of the employees of the department as such and the deputy head or the operating heads of the department concerned, I think that would be a different question.

Mr. BELL (*Carleton*): The resolution is based on the assumption that there are a number of bargainable matters, and in its own terms it states:

On which the final authority is delegated to a department or departments.

I assume that they are suggesting here that in respect of such matters the Treasury Board has no authority, it has been delegated completely and the Treasury Board is *functus*. Are there such matters, Dr. Davidson? What are the types of things that this staff association is trying to get at?

Dr. DAVIDSON: As a matter of fact, I have some doubts, Mr. Bell, whether there are such matters that, in the complete legal sense, are within the jurisdiction of the department as such that would come within the framework of bargaining. I am at a loss to know what they would be. I am aware of the fact that there are certain matters such as space arrangements, accommodation arrangements, lighting and the physical environment which to some degree come within the responsibility of the department itself to supervise and monitor, but even in a matter such as this the standards of accommodation and the guidelines of policy that are to be applied by the department are prescribed by the Treasury Board and, frankly, I am at a loss to know what bargainable items could be referred to which, under this legislation, could be said to come within the jurisdiction of the department, as distinct from the employer, as set out in the bargaining legislation.

Mr. CHATTERTON: Mr. Chairman, I wonder if anybody can answer the question whether the present membership of the Customs and Excise Officers Association goes beyond the boundaries of the categories which are proposed?

Dr. DAVIDSON: The present membership of almost any departmental association would almost certainly break down, on the basis of the categories, in a way that would result in some of the members of the departmental association finding themselves in each of the different categories.

Mr. CHATTERTON: So that it would not be possible for the present association to be certified as such?

Dr. DAVIDSON: The structure of our collective bargaining legislation does not contemplate a structure in the bargaining units on the basis of departmental units. This, in fact, is a contradiction of the concept of occupational groups that is basic to this legislation. I think the reasons for this are fairly clear, Mr. Chairman. There are stenographers, for example, in each department of government. If you have departmental associations formally recognized as bargaining units, this would contemplate paying persons of the same occupational classification different salary levels in different departments, according to the strength of the bargaining unit or the nature of the bargaining relationship between the employer and the employee. This, it seems to me, would create very real problems of equity and consistency so far as the Government of Canada as an employer for the public service as a whole is concerned. This was a decision that had to be taken in the early stages of the consideration of the desirable structure. We had to decide whether we were going to go for departmental associations, regional or local associations or occupational groups, and we came to the conclusion that the only practical basic principle to follow was one that was based upon occupational groups, subject to the exceptions that we have now provided.

Mr. CHATTERTON: This Customs and Excise Officers Association could be certified as a bargaining unit for any group where a large number of their members might be included?

Dr. DAVIDSON: There is nothing in the law that would prevent the Customs and Excise Officers Association from being certified by any group, recognized as a bargaining unit under the law that is prepared to have them as their bargaining unit.

(Translation)

Mr. ÉMARD: Mr. Chairman, I notice that this request applies to some items which are peculiar to certain departments. I think there are several precedents in industry, in which a national collective bargaining, for instance, is negotiated and in which the locals negotiate certain particular items. Those which are peculiar to their own locals. For instance, you have hours of work. At what time does one certain office begin and end work. I know that in Montreal there are traffic problems and in some cases even if the working hours are specified as being from eight to five, for instance, in some cases, we change the lunch hour, we start a little earlier in the morning and finish a little earlier in the evenings, so as to allow the employees to avoid the traffic jam. There are certain particular cases like this, but I do not see why a certain department could not negotiate some certain particular clauses which apply to their case in particular and only in their case.

(English)

Mr. LEWIS: Even in a single plant you may have that.

The JOINT CHAIRMAN (Mr. Richard): Are there any other comments on clause 1?

Mr. BELL (Carleton): There is another matter that I would like to raise. I wish to draw attention to the evidence that was given at page 335, I think it is, by Mr. J. A. Taylor, in which it was requested that a conscience clause be included in this bill. I wonder if Dr. Davidson and his associates have given consideration to that brief and what their view may be?

Dr. DAVIDSON: We have examined that brief, Mr. Chairman. I was present when Mr. Taylor and his colleagues presented their views to the Committee, and I think the fact that we have not of our own initiative presented a proposal to take account of this must be evidence of the fact that, even after considering the basis on which the proposal was put forward, we have not thought that it would be sound to introduce into the legislation itself a provision that would permit people to withdraw from participation in the bargaining units envisaged under collective bargaining legislation on grounds of conscience.

Mr. LEWIS: There is nothing that compels them.

Dr. DAVIDSON: There is nothing that compels them.

Mr. LEWIS: The fact is they are not required by the legislation to be members. The legislation does not provide for any check-off of dues. It is surely a matter for collective bargaining in a particular situation as to what requirements are made, and if the law does not compel them in any way, surely that is all they require.

Mr. KNOWLES: Mr. Chairman, I think the act goes even further. It spells out on pages 2 and 3 that no person shall intimidate, threaten or do anything against a person by reason of his becoming or refraining from becoming a member. In other words, it seems to me that the protection is there not only in terms of this natural justice we talk about but it is spelled out that you do not have to become a member, and if you do not become a member nobody can hurt you.

The JOINT CHAIRMAN (*Mr. Richard*): Pardon me, Dr. Davidson, if I may interject. Perhaps I did not understand Mr. Taylor very well but I thought that his submission was a little bit different. He wanted to be a member and make a contribution but revert that contribution to works of charity or the like.

Mr. KNOWLES: Or a political party?

The JOINT CHAIRMAN (*Mr. Richard*): No. He was a little bit ahead of some people.

Mr. PATTERSON: Mr. Chairman, I think a great many people today consider this a very important issue because of the fact that they find themselves in a bind with regard to certain union activities and organizations. I think the general idea, which was not only expressed by Mr. Taylor to whom reference has been made but by others as well, that some safeguard be placed in the legislation to ensure that they will not be required to contribute to funds which will find their way into political activities and, on the other hand, there are numbers who, for conscience reasons, did not feel they were able to join an organization. They wanted to be assured that some safeguard was included.

Dr. DAVIDSON: Mr. Chairman, both of the points catalogued by Mr. Patterson are, in fact, covered in the bill as it now stands. There is no need for anything else. Clause 39 which we dealt with this morning, does bar the use of the channel of the employee organization or bargaining unit as a vehicle for conveying political contributions, either voluntarily or compulsorily, from the individual to a political party. By the same token, there is nothing in the bill that requires anyone to become a member of the employee organization representing the employees.

The one thing I would like to say, of course, is that if an employee is within an occupational classification that is represented by a bargaining agent and if that bargaining agent, even without that employee being a member, negotiates a wage schedule with the employer or other conditions of employment that are worked out by agreement between the bargaining agent and the employer, the conditions of employment,—the wage rate and all of other negotiated conditions—apply to all of the persons in that bargaining unit whether they are members or not of the employee organization.

Mr. KNOWLES: Just the same as the conditions which are laid down by Treasury Board now apply to everybody without collective bargaining.

Dr. DAVIDSON: That is correct.

Mr. CHATTERTON: Is it possible, Dr. Davidson, for such an agreement to require dues to be paid by members?

Dr. DAVIDSON: No.

An hon. MEMBER: There is no check-off.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, in the case in which the Rand Formula might be negotiated or in which the Association and the Treasury Board would agree to accept the Rand Formula, in that case the employee would not have to be a member, but he would have to pay his dues. This is perhaps what Mr. Bell had in mind and referred to. I think that these people do not want to pay their dues to a

labour organization. There is absolutely nothing in the Bill which would prevent the organization from negotiating the Rand Formula and accepting it. In which case, conscientious objectors would be right because they do not feel that they want their money to serve the purposes of labour organizations.

(English)

Dr. DAVIDSON: That is the same position, Mr. Émard, as prevails in the industrial setting.

Mr. CHATTERTON: You did not answer my question, Dr. Davidson, whether it is possible for a collective agreement to require dues to be paid?

Dr. DAVIDSON: I think it is, yes.

Mr. RODDICK: I am sorry, Mr. Chairman. It would be possible for a collective agreement under the Rand Formula to require an amount of money equivalent to dues but not dues. Membership dues can only exist where there is a membership. If I could say one or two words, as all of you know, this is a difficult issue and a continuing issue in labour relations in the private sector. I am not familiar with every one of Canada's labour laws in respect of this issue but I do not think that most of them—certainly the IRDI Act does not provide such a conscience clause. To introduce such a conscience clause it is argued by some would permit individuals to gain all the benefits of the efforts of the union and to make no contribution of any kind. In many circumstances it has been possible to resolve the issue of conscience in a manner suggested by Mr. Taylor. Of course, it is impossible, I suppose, to anticipate the manner in which bargaining agents and the government as employer, or the Treasury Board as employer, will handle this issue. I can only express the hope that it would be handled in a due politic fashion.

Mr. BELL (Carleton): In the course of your study did you consider the provisions of the Saskatchewan act? They have made specific provisions for this, giving the board the power to say that the dues or the equivalent of the dues shall be paid to a charity. I confess I thought the Saskatchewan act was a rather sensible way of dealing with a rather difficult problem. It may be that it would be sufficient here to take the power by way of regulation in the board or something of that sort. But I just do not think we should brush this matter aside.

Mr. PATTERSON: I think, Mr. Chairman, the suggestion to which Mr. Bell has referred is really worthy of consideration because it has been submitted by certain of those who belong to and are active in, for instance, the Christian Labour Organization or association that some of these people would be willing and quite glad to contribute the equivalent to be placed in a fund of a charity designated by a certain group. They are not saying they want to designate where it has to go but they want the opportunity of contributing the equivalent to a charitable organization that is approved by the board or the organization concerned.

An hon. MEMBER: What do you think of that, Mr. Lewis?

Mr. LEWIS: Mr. Chairman, I think what we are discussing is not the particular cases but the wisdom of putting something into legislation with all the difficulties of definition and where you begin and where you end. I do not agree with these people. I have been in cases where I have persuaded a union to let

them pay to a charity or not pay as they liked because in practical fact there are very few in relation to the total and no organization, no employer, nobody is going to be hurt if they are given the right to exercise what they believe to be their conscience in this thing. But that is different from trying to write something into legislation.

Mr. CHATTERTON: Mr. Chairman, perhaps the Public Service Alliance or other organizations could provide within their own organizations a charity fund to which the contributions by these people could be allocated?

Dr. DAVIDSON: Mr. Chairman, it does seem to me too difficult to anticipate every conceivable situation that might arise at some point in the future. This problem, as I see it, does not really arise, certainly the contributions the individuals might be required to make, until at some point in the future there is a question of the inclusion in some collective agreement of a provision that requires all the members of a bargaining unit to make a contribution. It seems to me that it would be perfectly open, if that situation were to arise,—and there is no assurance that it ever will arise, and there is no assurance that the employer would agree to the inclusion of such a clause—to the employer at that point in the negotiations to argue that while he is prepared to accept what is in effect a compulsory dues payment in respect of all the members of a bargaining unit, there must be an exception in this particular collective agreement that would make other provision for any person in that bargaining unit who would have valid objections on grounds of conscience to having his contributions go into the coffers of the employee organization. Personally, I must say that in the absence of any real knowledge or experience of how much of a factor this is going to be I prefer not to see it written into legislation but left to be worked out in the process of negotiations if and when the contingency arises.

Mr. LEWIS: The real problem, surely, is the consequence to the person who says that he conscientiously cannot make the contribution provided under a collective agreement, namely, dismissal. Everybody is aware of the case in some small plant in Ontario where a man who refused to make the contribution was dismissed and an arbitrator upheld his dismissal. The sensible and humane way in my view—it is not new, I do not know the section of the Saskatchewan act, that Mr. Bell refers to. I do not recall ever seeing it. Is it a recent or old one?

Mr. BELL (*Carleton*): I do not know. It is in the brief that was submitted by Mr. Taylor.

Mr. LEWIS: I have not looked it up but this sensible thing is to provide in the agreement—I can show you one or two where it is provided—that if someone refuses to pay the contribution for reasons of conscience he shall not be penalized therefor, or shall not be dismissed or it shall not be, in his case, a condition of employment that he pay. But I do not think it is wise to have legislation on that matter.

Mr. LACHANCE: Mr. Chairman, let us ask Dr. Davidson. If this is left to negotiation in collective bargaining, a collective agreement, do you not feel that there might be some political pressure? After all, the employee organization will certainly be in favour of payment by all its members of contributions, and who would oppose it? Only the negotiator for the government, the Treasury Board, might oppose it. Are you not afraid that it would leave the door open to political pressure?

Dr. DAVIDSON: No, sir.

Mr. LACHANCE: It is not like private industry.

Dr. DAVIDSON: I think the political pressure one way or another can come from either side. I think it is helpful to have on the record an expression of the views of the members of the Committee, particularly from the different political groups, because this certainly would be a useful guide to the Treasury Board's position as employer in entering into any negotiations that would be affected by this point. It seems to me that it would be reasonable for the employer's representatives, if they were faced with a demand from an employee organization to have a requirement inserted into a collective agreement. That all members of the bargaining unit must pay dues whether they are members or not—it would be reasonable in those circumstances for the employer's representatives to recall the representations that have been made by those people who have qualms of conscience on this score. It would be appropriate at that time, it seems to me for the employer's representatives to recall the views which have been pretty generally expressed by the members of this Committee, which at least go as far as to indicate that special consideration should be given in any negotiations on collective agreements to the position of employees who do not wish to be compelled to become members or to pay dues to an employee organization on grounds of conscience. I think this would be very much a consideration in the minds of the representatives of the employers in any negotiating situation were this question to arise. But I doubt, frankly, whether it is necessary at this stage in the drafting of the legislation to write formally into the legislation a clause covering a contingency which so far as we now know may never arise and which, if it does arise, may very well be quite easily negotiable in the framework of the bargaining that takes place at that point in time.

Mr. LEWIS: I have another matter I want to bring up.

Mr. KNOWLES: We certainly do have the requirement in the statute that no person can be forced to become a member, and he cannot be intimidated by threat of dismissal or any other kind of threat because he refuses to become or refrains from becoming a member. I am reading from page 2c.

Mr. CHATTERTON: I think that would supersede any agreement.

Dr. DAVIDSON: Oh, quite.

Mr. BELL (*Carleton*): I think it is useful to have this discussion on the record and the expression of views. I would ask Dr. Davidson, however, to do one further thing between now and the time clause 19 of the bill is discussed in the House. Could you consider a simple amendment to clause 19, giving the board discretion to make regulations of general application covering these matters of conscience. Perhaps he would look at the model of the Saskatchewan act which I see—Mr. Lewis, I know is very interested in the date—came into effect May 31, 1966. So Mr. Lewis need not have any personal concern as to authorship.

Mr. LEWIS: I was not concerned in any case. I was surprised at it. I did not remember it. If it is as recent as that, that explains it.

Mr. KNOWLES: I think when Dr. Davidson looks at this matter in response to Mr. Bell's request that he should bear in mind what he himself said, namely, that in the minds of these people there is an issue we have not discussed. Dr. Davidson mentioned it, namely, their desire not to have to submit to conditions of employment arrived at as a result of collective bargaining. That phrase, by the way, is taken from a letter that I have had recently from Mr. Taylor and Mr. Devenish. They go further. They want not only not to be required to be members or to be required to make contributions but they want the right to opt out of the pay and conditions of employment that are arrived at. Now, it is no secret, I have carried on correspondence with these gentlemen and I have tried to make my position clear that I do not think they can ask for that any more than they can ask for different rates on the Ottawa Transportation Commission.

Mr. LANGLOIS (*Chicoutimi*): Mr. Chairman, following what Mr. Knowles said a moment ago that the law now—I have not got the act with me now—says that no employee shall be forced either to become a member of a union or association or to pay dues, if it is in the law how can you figure that at one time or another during negotiations you will be able to talk about the Rand formula. It is out already.

Dr. DAVIDSON: No, it is not out, Mr. Chairman. It is correct that the law prohibits enforced membership in an employee organization but the law does not prevent a collective agreement being negotiated in which the employer and employee organization voluntarily agree that amounts equivalent to the membership dues of the employee organization be deducted from the pay of all the members in the bargaining unit even if they are not members of the bargaining unit.

Mr. LEWIS: Members of the organization?

Dr. DAVIDSON: You are right. I should have said members of the employee organization. The law is silent on this point.

Mr. LANGLOIS (*Chicoutimi*): When they negotiate it is a global affair; I mean, it is not individual by individual, but in the statute there is the law, it is for an individual, it is not for a group.

Mr. RODDICK: Mr. Chairman, the nature of establishing terms and conditions of employment in bargaining is to impose upon all members of a bargaining unit a variety of conditions, including pay, and in some circumstances including contributions to pension plans, or an obligatory inclusion in a medical-surgical plan, or many other things which, in fact, take money off their pay cheques. The point at issue here I took up with the legislative draftsmen, to ascertain the manner in which the courts might be expected to interpret the word "intimidation" here and having regard to what, I think, most of the members of the Committee realize, namely that the Rand formula has been a formula used for many, many years now, there is clear evidence that the courts do not regard the insertion in a collective agreement of a Rand formula clause, which is a clause which requires the contribution to the certified agent of an amount of money equivalent to dues, as constituting intimidation of the employee.

(Translation)

Mr. ÉMARD: Mr. Chairman, I would like to make an unfavourable remark following a comment made by Dr. Davidson.

(English)

Dr. Davidson mentioned that it is difficult to foresee every situation that will arise and have a clause to deal with it in this bill. I feel that there is a clause in the bill that will protect the Treasury Board from every contingency that may arise.

Dr. DAVIDSON: Would you please call it to my attention, Mr. Émard?

The JOINT CHAIRMAN (Mr. Richard): Are there any other comments on clause 1?

Mr. LEWIS: Yes. It has been drawn to my attention, and may have been drawn to the attention of other members of the committee that the effect of this bill would be that the public servants who are excluded from collective bargaining units by virtue, particularly, of subclause (u) (ii) and by other clauses as well, but mainly the definition of an employee in a managerial or confidential capacity, would have no organized way at all through which they can have some representations made on their behalf about their salaries and terms of conditions of employment. They are completely excluded and there would, I imagine, in as large a work force as the public service of some 200,000, be some thousands who would be excluded under clause 2(u) (ii). It would be a considerable number; we are not dealing with just a very few people. I drafted a suggestion but I would just as soon not move it because I am sure it can be improved on. I would like to ask Dr. Davidson whether it is possible to put in the bill a clause which would in effect import into this bill Section 7 of the Civil Service Act in respect of these employees. My suggestion, because I am not a drafter, is, I think, simpler than your drafting advisers would probably make it. Theirs would be more accurate, I am sure. Could we not have a clause in the bill which would simply say: "The Treasury Board shall from time to time consult with representatives of appropriate organizations and associations of employees"—the wording is from Section 7 of the Civil Service Act, "with respect to remuneration and other terms and conditions of employment of public servants excluded from bargaining units by virtue of subclause (u) of clause 2 of this act."

Dr. DAVIDSON: Mr. Chairman, I think this poses a very real difficulty because while a great many of these so-called managerial exclusions will in fact be excluded from bargaining units, they will be in classifications that are being dealt with in the process of collective bargaining. Just as the conscientious objector, who by his own abstinence, tries to exclude himself from participation in the process of collective bargaining as a member of the employee organization, is bound by the terms of the collective agreement that is eventually negotiated between the employer and the employee organization concerned in respect of this particular class of employee, so the persons who are excluded under the managerial exclusion provision most of them being in classifications which will be covered by the bargaining process, will be automatically covered. I must say I think we could get ourselves into some difficulty if we were to set up a twofold procedure for dealing with the conditions of employment of people who are in classifications that are the subject of collective bargaining but who are excluded for any particular reason because of their individual position in the managerial hierarchy. Now, I make a distinction between that group, Mr. Lewis, and other groups of classifications where the total group is excluded from the collective bargaining procedure. Do you see the distinction there?

Mr. LEWIS: It seems to me, Dr. Davidson, the suggestion I have made, and which is not original with me at all, protects you, surely. You have the organization appear before you merely in consultation with you. There is no obligation on you, that is, on the Treasury Board, no collective agreement, nothing of an obligatory nature flows from it. They appear before you and they say such and such a group of people has been excluded and you say: "Well, their terms and conditions are the same as their equivalent group within the bargaining unit." Then, presumably, you will have an argument whether that is the case. The organization may say, because of the added duties of this man or woman, because of the greater responsibility as management personnel, "we think you ought to recognize those duties." You will discuss it. All this suggestion means is that they be given the opportunity to put that kind of suggestion to the board.

There was also a suggestion, I think, from the Professional Institute, that there be an advisory council similar to the British one. I am frank to say that I am not persuaded that in this legislative regime, as distinct from what has grown up in the United Kingdom, that that advisory council is needed. I appreciate the difference and therefore I am not at all sure that it would fit this legislative framework to set up an actual separate sort of bargaining organization no matter how informal. I am not suggesting that for that reason. I am suggesting to you that—

Mr. BELL (*Carleton*): That is not the situation in England though under the standing advisory committee.

Mr. LEWIS: What is not the situation?

Mr. BELL (*Carleton*): What my friend has just described as a sort of bargaining unit at the top.

Mr. LEWIS: No, I appreciate that but it gives us more formality and I am saying if you want to go to that, Mr. Bell, you may be able to persuade me that that is the right way of doing it. At this point I am suggesting that the Professional Institute, which I assume will be one of the organizations most affected, should be able to come and discuss with the Treasury Board the terms and conditions of the excluded personnel. It seems to me the difficulty you raise simply does not exist if it is consultative machinery.

Mr. CHATTERTON: In the first place, can Dr. Davidson give us just a rough estimate of how many of these people covered by clause 2(u)(ii) would not be in classifications subject to negotiation?

Dr. DAVIDSON: I would have to make a blind guess at that.

Mr. CHATTERTON: Some indication?

Dr. DAVIDSON: I doubt whether the numbers who are not in classifications covered by bargaining units—we covered that question earlier—would exceed more than 3,000 at the outside.

Mr. CHATTERTON: Now, if Mr. Lewis' proposal was amended to refer only to those who were holding positions not included in classifications in the negotiations, would that obviate your objection?

Mr. LEWIS: If you will permit me, Mr. Chatterton, I think your question and Dr. Davidson's answer carry within them a conclusion that the people concerned

may not agree with. If I am an engineer and Mr. Knowles is an engineer and we are engineers of the same grade and I have nothing other than engineering duties, with two or three assistants under me, and Mr. Knowles has managerial duties which exclude him from the bargaining unit, with 200 or 300 people over whom he has supervisory authority, it is open to Mr. Knowles to argue or to get his association to argue that because of the added—I am not saying he is right or wrong, just that it would be open to him to argue—responsibilities, the added duties, he is entitled to a different classification to get higher pay than I do who do not have those responsibilities.

Mr. KNOWLES: Hear, hear.

Mr. LEWIS: Now, Dr. Davidson's answer ignores Mr. Knowles' right to make the argument. And, if it is Mr. Knowles', Dr. Davidson will hear the argument many times. This is all, surely, that it involves: For the excluded personnel to have the right to come to the Treasury Board through their organization and discuss these matters and make their argument that their added responsibilities require recognition in some appropriate form.

Mr. WALKER: Mr. Chairman, if that is so, do you not have the Treasury Board in conflict with the bargaining agent? In this case you are operating on two parallel roads at the same time, because the bargaining agent for a union is in fact bargaining for people even if they are in that classification and are excluded from membership.

Mr. LEWIS: No, they are not. If they are not in the bargaining unit the bargaining agent does not bargain for them. He has no right to bargain for them.

Mr. WALKER: But he is representing that particular classification, whatever conditions—

Mr. LEWIS: No, with great respect, Mr. Walker, he does not represent the person who is excluded in any way whatever except by analogy. He does not bargain for them; he does not represent them; he has no right to take up their grievance—I am speaking of the bargaining agent—he does not speak for them; he has no right to process a grievance for them; he simply does not represent them.

Mr. WALKER: Well, a minute ago we decided that the bargaining agent did in fact represent people who did not want to be represented.

Mr. LEWIS: But they must be within the bargaining unit. The bargaining agent represents all the people, whether they are members of the bargaining unit or not, within the bargaining unit. But, he does not represent anybody without the bargaining unit.

Mr. WALKER: Oh, I see.

Dr. DAVIDSON: But any agreement that fixes a salary, let us say, for a specific classification applies to the classification in which excluded persons find themselves.

Mr. LEWIS: Dr. Davidson, it may; it does; I acknowledge it. If I am an engineer excluded, and, assuming I agree that my duties are no greater than those included, the salary is mine; but I want the right to argue with you that the duties which exclude me from the bargaining unit deserve recognition. It is

just as simple as that. Surely I should be given the right to put it to you, which is all "consultation" means. What you do with it then is a matter of persuasion and for your decision. I cannot do anything about it except that. What is wrong with giving them that right of consultation through their organizations.

The JOINT CHAIRMAN (*Mr. Richard*): Dr. Davidson, could you tell me how you intend to deal with it?

Dr. DAVIDSON: I have no hesitation in saying that I would expect that the door will be open, so far as the employers' representatives are concerned, to representation by the employee organizations that have hitherto been accustomed to making representations and that have hitherto been involved in the consultation process; and that there will be no disposition to discontinue the processes of discussion between the employee organizations and the representatives of the employers, nevertheless, I would frankly be reluctant, speaking for myself, to see introduced into the collective bargaining legislation, as such, a second statutory channel of communication.

What is done by mutual agreement and arrangement is one thing, but, after all, we have proceeded through a series of stages when employee organizations had no right to make more than representations; we have proceeded through a form of legislative arrangement under which there was formal consultation and that was found to be unsatisfactory, we were told—and we agree; we have now replaced this with a full-fledged system of collective bargaining, which I think goes further than in outside industry in that it provides both for the option of arbitration or for the option of striking.

It seems to me, having gone that far, that for us to add, in statutory form into the legislation, a third privilege that would provide a channel of consultation with organizations that may or may not be recognized as bargaining units in the collective bargaining context, and that may or may not represent a significant number of the employees who are excluded from the bargaining unit—we have no knowledge of that at the present time, and we are not likely to have until the situation is clarified—would be dubious wisdom.

Mr. LEWIS: Dr. Davidson, you and I have known each other for a long time. I think you are really arguing by assertion and not by reason. All you are saying is that we have something and it would be a pity to introduce something else. That is just an assertion, with great respect.

The fact is that your legislation will necessarily exclude from the processes of collective bargaining some thousands of men and women who, prior to the collective bargaining legislation, did have the opportunity for consultation through section 7 of the Civil Service Act. What your collective bargaining legislation accomplishes with regard to these thousands of men and women is this: It leaves them completely without anything. The situation of those who are included in the bargaining unit is improved, because from consultation they go to collective bargaining. The situation of those whom this legislation excludes from bargaining units deteriorates, because they lose even the consultation right which they formerly had.

I do not see any conflict at all with the framework of your legislation. You can satisfy yourself, before you speak to anyone, that they do in fact represent the people for whom they desire to speak. When they come to see you you can

say to them: "Will you please give me evidence that these people want you to talk for them and that they are your members?" You have a perfect right to do that. The legislative requirements for consultation do not lay down any rules. What I am suggesting to you would not, and the old act did not. You can certainly satisfy yourself that this spokesman, in fact, speaks for the people for whom he purports to speak. If you are satisfied that he does, then what I am suggesting to you, it seems to me, gives back to those thousands what they had before. It is as simple as that.

I just cannot, with the greatest of respect, be impressed by the assertion that there is something illogical about doing this. I do not think there is anything illogical about it at all. It would not matter if you were dealing with a dozen or two but I am confident that under the various subclauses a number of thousands of people across the public service—and properly so; I am not complaining about it—will be excluded from the bargaining unit. I am suggesting that you give serious consideration to re-inserting for them the consultative procedure which they now lose. The others gain; they lose.

Mr. BELL (*Carleton*): Mr. Chairman, this the feature of the legislation that has, from the very outset, caused me more concern, I think, than any other, because there is no doubt that there are thousands of persons who after this legislation is passed, are going to be in a position less favourable than their present one under the existing Civil Service Act with its guarantee of the consultation process under section 7.

Dr. Davidson has said to us this morning that for these people the door will be open. I do not see any part of Dr. Davidson's argument which is against our making statutory that the door shall be open. That is all that is being suggested. If the door is going to be open in any event let us put it in the statute and make sure that it will be open.

At a very minimum I would be prepared to support an amendment of the type that Mr. Lewis proposes—perhaps drafted somewhat differently, but an amendment which carries that import.

I feel that we ought also to consider whether the model of the standing advisory committee of the United Kingdom ought not to be adopted, as well. I think it has worked well there. I do not think that the mere fact that the system of collective bargaining in Britain has no statutory basis makes any real difference. This is the technique, in any event, for generally excluded personnel in the U.K. I think there would be real advantages in adopting this system in Canada. If we do not adopt it I fear that this legislation is going to be very detrimental in fact, to many thousands of public servants, and I think that this Committee has an obligation to try to protect them.

Mr. CHATTERTON: Mr. Chairman, I would say that the proposal made by Mr. Lewis should be the very minimum. I think it is extremely reasonable. It does not place any compulsion on the government to accept the requests; it is merely that they shall consult. I had in mind something similar to what Mr. Bell said, and that they should go beyond that. I think Mr. Lewis' proposal is the very minimum that should go into the act. I would urge the government at least to consider something along those lines.

Mr. LEWIS: Mr. Chairman, if I could explain to Mr. Bell and Mr. Chatterton, one of the reasons why I am not so sold on the advisory council is because of the

set-up. You have the Treasury Board as the employer and it will be doing all the bargaining with all the classifications. It will have the knowledge of what has been done with respect to all the qualifications. It seems to me that it is the body with which this consultation should take place, because it will have the information.

This is why I thought that simply reintroducing an appropriate adaptation of section 7 of the Civil Service Act for the excluded personnel should prove adequate. If, in practice, it is not adequate then we can do something else. This is why I thought that since the Treasury Board will be the body doing all the setting of rates and so on, in one way or another, they are the right people to deal with the organizations representing the excluded personnel.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, will you put that as an amendment before the Committee now?

Mr. LEWIS: Let me move it, if I may. I am not sure that the wording is right and I would be very happy just to move it and lay it on the table and let Dr. Davidson consult other people. He may want to consult the law officers for the best kind of amendment.

Mr. BELL (*Carleton*): Mr. Chairman, since we are not going to finish—

The JOINT CHAIRMAN (*Mr. Richard*): No; but I thought we should have this amendment before us so that Dr. Davidson could consider it.

Mr. BELL (*Carleton*): It is clear that we are not going to finish, and some of us have other engagements—

The JOINT CHAIRMAN (*Mr. Richard*): Shall we just take the amendment so that Dr. Davidson can have a copy during our recess.

It is moved by Mr. Lewis that clause 59—

Mr. LEWIS: I thought there might be a new clause. I did not know just where to put it.

The JOINT CHAIRMAN (*Mr. Richard*): It states:

The Treasury Board shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to remuneration and other terms and conditions of employment of public servants excluded from bargaining units by virtue of subsection (u) of section 2 of this Act.

I will give a copy to Dr. Davidson.

Do you want to make any more comments before we decide to adjourn?

Dr. DAVIDSON: No, sir. I hope that the members of the Committee who have spoken so eloquently will not mind my saying that I still have reservations about the wisdom of this. I cannot, myself, see clearly through the problem that I believe is presented by this amendment which, in my judgment, introduces two separate channels of communication with respect to people who in a good many cases will qualify in the same classification.

I am not persuaded by the argument that, after all, this is only consultation and that the Treasury Board can listen and do what it wants to do afterwards. Mr. Chairman, we have been subjected in the last two or three years to a great deal of criticism from the staff associations about consultation; that it is a

thoroughly unsatisfactory procedure; and that all that results is that the Treasury Board receives representations and enters into a process which is called consultation, but nothing results from that.

Because of this I am satisfied that if we were to accept lightly an additional channel of communication such as is here envisaged, using again this familiar word "consultation", the Treasury Board would soon find itself in a position where there would be inevitable conflict between what it was bargaining to do with respect to persons occupying certain classifications in the bargaining context and what it was being asked to do by the consulting organizations with respect to the employees in the same classifications who are excluded from the bargaining units.

The Treasury Board would be on the horns of a dilemma. Obviously, it would have to adhere to collective bargaining arrangements, and if it were to ignore the advice that it was receiving through the consultation process, which would be advice, in some circumstances that would be inconsistent with what it was binding itself to do under collective agreements, it would be subject to the familiar charge that it was paying no attention to the advice it was receiving through the channel of consultation. You may say that this, of course, will happen in any event if, as you say, the door is kept open for discussions with the staff organizations involved. I agree, in a large part, that it will happen, in any event, but it will not be written into the legislation in a form which puts the Treasury Board in a position where it cannot consistently—

Mr. LEWIS: —ignore these consultations?

Dr. DAVIDSON: In your interpretation—

Mr. LEWIS: That is the purpose of putting it in the legislation.

An hon. MEMBER: Nor the right of the agent to bargain for—

Dr. DAVIDSON: I merely want to say, with great respect to the members of the Committee, that I have not yet been persuaded by their arguments.

Mr. CHATTERTON: If Mr. Lewis' word "shall" were replaced by "may" would your objection still apply, Dr. Davidson?

Dr. DAVIDSON: I am speaking very personally here, Mr. Chairman. I think I would have to say that I would be reluctant to see another statutory procedure written into the legislation at a time when we are embarking upon a new concept of collective bargaining. I want to be sure that there is no conflict between the procedures that have to be carried out in conformity with the collective bargaining legislation, as such, and what is done under these other peripheral and marginal channels of communication. I am quite prepared to experiment with them; I am quite prepared to agree that we should consider the desirability of an advisory committee which, on the face of it, I consider to be a good idea; but I would be reluctant to see things written almost irrevocably into the statute at this time until such time as we have had some experience with the problems of collective bargaining as such and know better, in the light of that experience, what supplementary machinery, such as is now being discussed, should be added by way of inclusion in the statute.

Mr. McCLEAVE: If these employees who are left out look through these bills to find out where their rights are defined and discover that large numbers of

people are covered but they are not, do you not think that this is apt to engender some bitterness, or the feeling of being second-class public servants?

Dr. DAVIDSON: Mr. Chairman, the provisions of the Industrial Relations and Disputes Investigation Act, and of all of the labour statutes that I am aware of on the statute books of the provinces, provide at the present time for mandatory exclusions.

Mr. LEWIS: Mr. Chairman, let me remind Dr. Davidson that the result was the dockworkers' strike on the west coast.

Dr. DAVIDSON: But we have provided for the supervisory group in our legislation.

Mr. LEWIS: How?

Mr. RODDICK: Clause 26(4) permits supervisory bargaining units.

Mr. LEWIS: This is a particular type of employee; but there are still people excluded.

Dr. DAVIDSON: Yes, Mr. Chairman; but if this section had been in the I.R.D.I. Act you would not have had the strike in the west.

Mr. LEWIS: Well, I do not know.

Mr. RODDICK: Mr. Chairman, I would like to get on the record, if I may, certain implications that seem to flow from the proposal regarding the group which would be known as the management group which, I hope, includes the Secretary of the Treasury Board and his immediate officers and a good many people in departments whose job it is to discharge the responsibility of an employer in a relationship which is rooted, not necessarily in conflict, but surely in contention between two sides.

I am concerned that if, in effect, the management group are encouraged by legislation to form associations for the purpose of consulting, the divisive influence that this will have in terms of the management team will have an unfortunate effect.

It seems to me that it is the responsibility of management, even the large complex management groups that we will have here, to provide for effective communication within its own ranks. But to assume that that effective communication within its own ranks will not take place, and to insert a legislative provision which says that if you want to influence what the Treasury Board does for management, you have to go out and organize a group and approach them not from within but from without, is to break up the team before it is established. This would be my greatest concern.

With respect to the confidential group, however, I think another case exists. The confidential people dealt with in clause 2(u)(v), I believe, are caught in a "bind". They are not management, and I do not think that the case I am making would be considered applicable to them in the same fashion.

I am also concerned about what happens when the Treasury Board is approached by an association representing employees on Monday and on Tuesday it turns up representing people who are supposed to be the agents of the Treasury Board in the discharge of its responsibility in collective bargaining.

Mr. LEWIS: What is wrong with that?

Mr. RODDICK: I am asking you. Can top management place confidence in the management and subordinate management that it is asking to discharge the responsibilities of the employer in a situation such as would be precipitated by this proposal? I have grave doubts.

Mr. KNOWLES: Mr. Chairman, before we adjourn, may I ask one question? I apologize for not having been here when we started this morning and dealt with Bill C-182. Am I correct in understanding that you decided to include in the report to the House some recommendation regarding pensions in the case of persons dismissed for security reasons?

The JOINT CHAIRMAN (*Mr. Richard*): It was not spelled out, but it is understood that when we make the report we will discuss that. The bill is not being referred immediately to the House, and when we make our report that recommendation will be included.

Mr. KNOWLES: The bill itself was passed, but we still have the report to consider?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes; that is right.

Mr. LACHANCE: Are we going to resume on clause 1?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes; on clause 1, this evening at 8 o'clock.

Mr. LACHANCE: I will have a few words to say on that clause.

The JOINT-CHAIRMAN (*Mr. Richard*): We will deal with clause 1 at 8 o'clock tonight.

The meeting is adjourned.

EVENING SITTING

The JOINT-CHAIRMAN (*Mr. Richard*): When we adjourned this morning we were on clause 1 of Bill No. C-170. We were talking about an amendment which was moved by Mr. Lewis. I understand there is more discussion to follow.

Have you anything further to add, Mr. Roddick?

Mr. WALKER: I just wondered if Mr. Lewis had anything more to say.

As you can well imagine, I had a discussion with Dr. Davidson immediately after the meeting, and he outlined the grave difficulties that he has in accepting any statutory conditions that would give to a group of management team that type of representation, which he is quite in favour of their having, but not as laid down in the statutes.

I think Mr. Roddick covered it very well this morning when he explained the difficulty, to his mind, of having a management team and Treasury Board as part of that management team—and he excluded personnel as being part of the management team—and having this team bargaining with themselves. This would be the effect of it. I am putting a point of view that has come to me, Mr. Lewis. This would be the effect of writing it in the legislation.

As was agreed in one other matter, we could make a strong recommendation in the Committee report to the government. I have a suggested type of wording that might express the wishes of the Committee on the non-inclusion in the

statutory law of this particular type of representation for excluded people. Perhaps this could be passed around, or I could read it.

The Committee is concerned about the position of public servants who, under the proposed legislation (Section 2(u)), will be excluded from bargaining units because of their managerial responsibilities, or because they occupy positions confidential to management.

Under the administrative and legislative procedures now in effect, staff associations that are members of the National Joint Council are authorized to make representations to the Civil Service Commission and the Treasury Board with respect to salaries and other terms and conditions of employment of classified civil servants, including many who, because they have managerial responsibilities, will be excluded from bargaining units under the provisions of this legislation.

The Committee urges the Government to establish, as soon as possible after this legislation comes into effect, special administrative mechanisms and procedures which will provide those who are excluded from bargaining units with an opportunity to make representations relating to their salaries and other terms and conditions of employment, in such manner and fashion as will provide assurance that their views on these matters are taken into account and have a bearing on the determination of their salaries and other terms and conditions of employment.

For this purpose, the Committee recommends the creation of an Advisory Committee, comparable to the "Franks Committee" in Great Britain, which should, in its terms of reference, be required to consider the salaries and other terms and conditions of persons excluded from bargaining units in a regular and systematic fashion, to afford representatives of such persons a full opportunity to be heard during its consideration of these matters, and, with due regard to the salaries and other terms and conditions of employment that have been established for employees as the result of collective bargaining, advise the Government on the appropriateness of the salaries and other conditions of employment applicable to such persons.

Mr. LEWIS: I would like to ask Mr. Roddick if the people we were talking about were excluded from consultation under the Civil Service Act?

Mr. RODDICK: Mr. Chairman, I think it must be recognized that a great many people who are in a system of collective bargaining provided by this bill had no rights of consultation under the Civil Service Act. All the prevailing rate employees had no rights; all those members of agencies which lay outside the jurisdiction of the Civil Service Commission had not such rights; but because the law still prevails and because the present Civil Service Act was contrived to handle relationships in a totally different context, a context in which the precise responsibility of management was not implicit—this responsibility being assumed in some degree by the Commission and in some degree by the Treasury Board—it is true that there may be represented in this consultation process employees who will be managerial exclusions under the proposed bill.

Mr. LEWIS: Mr. Roddick, I am not arguing about words, but I really do think that you people have closed your minds to this. When you have consultation, you have consultation.

Mr. RODDICK: What do you mean?

Mr. LEWIS: As far as the prevailing rate employees are concerned, they, of course, were in a different class. They received the prevailing rate. The bargaining was done by the unions with other employers and the prevailing rate applied. As I understand it, it was not merely the prevailing rate, but the prevailing hours and other things.

The point is that if these managerial people could be a part of the consultation process before, I do not see anything other than—forgive me for putting it this way—bureaucratic fear standing in the way of giving these people the same rights to be spoken for as they had before.

You say that the management role was blurred, or whatever the words were. They were not blurred. They did not run the show without management. Whether you have a collective bargaining regime or not, you have management personnel carrying out exactly the same duties as the management personnel carry out now, except that there is a codified way in which it is to be done for the grievance or for the bargaining. They are the same people, doing the same job, carrying on the same duties and having the same responsibilities as before; and previously they were given the right under the act to have some organization speak for them. Now you tell me that it will upset the world if they are given the same rights, without any right of bargaining, without any right to insist on a decision, without being entitled to take any action to enforce their will, but merely to be spoken on behalf of by some organization that factually represents them. What we are being told Mr. Chairman is that the Treasury Board is prepared to continue consultation on behalf of these people as before. Mr. Walker, the government spokesman, has even suggested that we recommend in the report that this be carried on; but for some reason putting it in the statutes, so that everyone who wants to see it can read it and know that his rights are being protected, is an evil in the system.

I think on occasion I have proven to the Committee and to the officers that I try to avoid having a closed mind on these things, because they are practical matters, they are not matters of principle except tendentially. I just do not see it. I cannot see what you are afraid of. I just do not see what you fear. They are the same people.

If you do not have this, and if for some reason this voluntary consultation breaks down because someone gets mad or loses his patience, then you have many thousands in a situation where they will have no organization to speak for them, and each of them will have to do it separately and individually. I do not see the reasoning at all.

Mr. RODDICK: Mr. Chairman, I suppose my personal position, which I expressed at this morning's meeting, is capable of the interpretation which Mr. Lewis has put upon it. Tonight, Mr. Chairman, I am obliged to speak not only for myself but for Dr. Davidson.

If I may attempt to interpret the position which he took this morning, and to interpret what is probably a more considered and pragmatic approach to what Mr. Lewis has identified as, in our very large organization, a genuine problem of the communications of the feelings of what will inevitably will be fairly large numbers of people about their terms and conditions of employment—if we tackle it from that point of view—I think I can say not only for Dr. Davidson but for myself that it would be desirable to find an appropriate mechanism for the

channelling of the views and attitudes and feelings of these people about their terms and conditions to those people in high authority who are ultimately going to determine what those conditions will be. Dr. Davidson, in his remarks, seemed to indicate that he felt that such a process would probably be necessary. I think the objection was to putting it in statute law, and particularly to simply carrying over the former approach of a totally different system.

As Mr. Walker has indicated, Dr. Davidson, he and I had some conversation about this after this morning's meeting, and we thought to find some method by which these large numbers of people, who obviously are not all going to be able to demonstrate their worth individually to the President or Secretary of the Treasury Board, will have some assurance that their interests have appropriate protection and that they will be able to make a contribution to this.

The proposal which Mr. Walker would like to offer to you is designed to achieve that purpose. It is perhaps only one of a number of alternatives, but, in our view, it is less troublesome, in terms of the problem that I identified, than to proceed with a statutory provision which would permit and authorize employee organizations who, on Tuesday, are representing employees, to come to the Treasury Board on Wednesday to represent the Treasury Board in the administrative sense.

I am concerned to avoid the conflict of interest and responsibility that seem to be implicit in the application of your particular suggestion, Mr. Lewis, but I am very sympathetic to the finding of an appropriate way to handle the problem.

Mr. LEWIS: Would Mr. Walker be prepared to put a time limit within which this advisory committee is to be established? I am not saying for the moment that I accept this proposal as an alternative. I would like to hear what other people would have to say, if it were considered, but would I not like to say that we recommend the creation of an advisory committee.

Mr. KNOWLES: Mr. Chairman, in terms of the record, Mr. Lewis is talking about something that has not been put on it yet. I would suggest that perhaps Mr. Walker could put this document in the record.

Mr. LEWIS: It might be helpful.

Mr. WALKER: We will take it as read, Mr. Chairman, and as a method of providing communication of a kind that would give the non-represented employees an opportunity to discuss their problems with their superiors. That is what it amounts to.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee that this proposal, which every member has received, be made part of the record at this time?

Some hon. MEMBERS: Agreed.

Mr. WALKER: It has been called the Franks Committee. The proper name is the Standing Advisory Committee on Salaries of the Higher Civil Service. That is what it is called. Perhaps we should put a comma after "Committee" and a comma after the official name that I have just mentioned. The Standing Advisory Committee on Salaries of the Higher Civil Service is a proper designation of what has been called the Franks Committee.

An hon. MEMBER: Put that in.

Mr. BELL (*Carleton*): It is the type of Committee that is spoken of in appendix K of our proceedings at page 509.

Mr. LEWIS: Would Mr. Walker answer my question whether he and the officials would be ready to consider putting into the last paragraph, beginning on page 1, a recommended period within which the Committee would be set up three months or four months.

Mr. BELL (*Carleton*): July 1, 1967 is a good date.

Mr. WALKER: Could we relate it to the schedule B dates?

Mr. RODDICK: If I may comment on this question, in terms of the proposal here it is implied that the terms and conditions which have been secured by people in bargaining are things that might, relatively speaking, be taken into account in relation to those who are excluded from these, and therefore the operational requirement would seem to occur (a) as people are excluded and (b) as the units from which they have been excluded in fact enter into collective agreements; and therefore there is a situation in which comparisons can be made. In relation to that sort of condition, one would speculate about when the first collective agreements will be signed. I would speculate perhaps by July 1, and it does not seem to me an inappropriate date if a date is to be proposed.

Mr. LEWIS: If we are going to discuss this seriously I would certainly like to have a date.

Mr. WALKER: I do not want to choose a date out of thin air. It should certainly not go into effect before any other bargaining units have been set up.

Mr. RODDICK: It seems to me, Mr. Chairman, from the wording that is suggested here that the Committee will function in a regular and systematic fashion, and that the timing of its creation and the timing of its work are not necessarily the same thing.

Mr. LEWIS: But if you set it up you lay fears to rest. You may delay the actual operation, but you set it up within a certain time limit.

Mr. WALKER: We are trying to solve a problem for these excluded people. Mr. Roddick knows more about the timing of this. It is—

Mr. RODDICK: Not later than six months.

Mr. WALKER: This would take us to July 1.

Mr. LEWIS: Six months—

Mr. WALKER: From the adoption of our report in the House of Commons, I would presume.

Mr. KNOWLES: Be careful; our report is not adopted.

Mr. LEWIS: Six months from the coming into force of the Public Service Staff Relations Board Act.

Mr. KNOWLES: Bills that we report are put through the House, but a report that we make is not adopted. Did you not know that?

Mr. WALKER: Yes, I did; but what about the suggestions that we are putting into the report?

Mr. KNOWLES: They become things that we have recommended to the House. We can put pressure on the government to agree with them, but the number of reports that are moved and adopted is almost nil.

Mr. McCLEAVE: In the middle of paragraph 31: the Committee urges the government to establish, within six months of the coming into effect of such and such, special administrative mechanism.

An hon. MEMBER: And take out "as soon as possible—"

Mr. LEWIS: I do not mind; it seems to be a good suggestion.

The JOINT-CHAIRMAN (*Mr. Richard*): Do you understand now? That is in the third paragraph—that the Committee urges the government to establish, not later than six months from the coming into force of Bill No. C-170, special administrative mechanism, and so on.

Are there any other comments to be made?

Mr. WALKER: We will have to delete something here. Did you take out "as soon as possible after this legislation comes into effect"?

An hon. MEMBER: Yes.

Mr. WALKER: All right.

Mr. McCLEAVE: We will join up these parts later, will we not? Or can we join them up now?

The JOINT-CHAIRMAN (*Mr. Richard*): This is one of the recommendations that we can adopt.

Mr. KNOWLES: Is this not just like the other things that we have agreed to put into the report? We are agreeing to it in principle. When we actually come to draft the report we can finalize it.

Mr. BELL (*Carleton*): Mr. Chairman, I would like, very briefly, to make my position clear. I, personally, would prefer to support the amendment which was proposed by Mr. Lewis, but expanded somewhat, which is confined entirely to an amendment to clause 2(u). I think there also should be included in it the other exempted group, which is the executive group. In other words, in this legislation there are only five categories. The sixth, the executive group, is entirely out. If Mr. Lewis' motion were being put to a vote I would want to amend it to bring the executive group in. For reasons which I mentioned this morning, I would prefer that that be done and that it be made statutory.

It has been made quite clear by Dr. Davidson and by Mr. Roddick that they want a technique of consultation; there is no question about that. Therefore, I see no harm whatever in making it statutory. I had hoped at one time that this whole process could be, as it is in England, non-statutory, and that it could all have grown up as it did in England.

The officials in this respect appear to say: "Well, all right; we have to make it statutory in everything except this." I just do not understand this attitude. If we are going to have to settle for something, I think there is a considerable advance in the proposed establishment of an advisory committee, provided it is clear that that advisory committee includes not only the exempted clause 2(u) personnel, but, as well, the totally-exempted executive personnel. I think that ought to be clear. If Mr. Lewis puts his motion I will move an amendment

to include in his motion "executive personnel" and if that does not carry I will settle, with appropriate amendments, for what has been presented by Mr. Walker tonight.

Mr. RODDICK: Mr. Chairman, on a point of interpretation here, my impression of Dr. Davidson's view—and I would hesitate to be too precise—is that it was the intention that this provision would provide for the executive category.

Bill No. C-170, as it is established, may be interpreted in two ways. It may be interpreted in the way that Mr. Bell has just mentioned, that those people who are in the executive category are exempted from the provisions of legislation rather than being excluded from bargaining units. If that is the correct interpretation, then I personally would see no harm—and neither, I believe would Dr. Davidson—in a modification of this proposal to make reference to persons in the executive category as well as to persons excluded.

Mr. BELL (*Carleton*): I think that would be useful.

Mr. RODDICK: If I may say so, Mr. Chairman, the wording that occurs to me starts with the end of the third line of paragraph 3, which will provide for those who are exempt from the provisions of this legislation because of their inclusion in the executive category, or who are excluded from bargaining units.

Mr. BELL (*Carleton*): So long as there is consideration given to this point before the final draft of the report.

Mr. LEWIS: Mr. Chairman, before I make a suggestion, may I say that I dislike very much putting Mr. Roddick "on the spot"—perhaps Dr. Davidson would feel less hesitant—but I would be very grateful if Mr. Roddick were able to place on record that Dr. Davidson and those associated with him intend to see to it, as far as it is within their power to do so, that this advisory committee will, in fact, be set up, and that this is part of the Treasury Board officials' policy and intent.

Mr. RODDICK: It is my impression that your words adequately express the position of Dr. Davidson, but I think he would have to add that he is not in a position to express in any way what may be the considered views of the government on this matter, but what I have said would I think tend to imply that when he was asked for his advice his response would be favourable to this proposition, not opposed.

Mr. BELL (*Carleton*): I think that is as far as we can go. I think as members of the Committee we say that if the advice is not accepted we will harass the government until they do accept it.

Mr. KNOWLES: Those words sound as if they came from Dr. Davidson himself.

Mr. LEWIS: Mr. Chairman, I think because the proposal brought in by Mr. Walker contains more precise machinery, namely, the advice of the Committee, in place of the mere consultation which my suggested amendment contained, if the members of the Committee would permit, I would withdraw my amendment with the understanding subject to editing, that what has been proposed is part of our report.

The JOINT CHAIRMAN (*Mr. Richard*): Does the Committee agree to permit Mr. Lewis to withdraw his amendment, and allow the proposal Mr. Walker, has

suggested, including the amendments which have been proposed to be re-edited and made part of the recommendations of this Committee?

Mr. LEWIS: I assume, without any offence to Mr. Walker, that Dr. Davidson and Mr. Roddick had something to do with the authorship and that they wrote with their hearts.

Mr. WALKER: I did it all myself.

Mr. KNOWLES: The record will not show Mr. Walker's smile.

Mr. WALKER: You will have to guess whose idea this was; we will leave you in doubt.

Mr. KNOWLES: Oh, no, you do not.

The JOINT CHAIRMAN (*Mr. Richard*): It is too bad the Chairman cannot speak.

Mr. LACHANCE: For my own personal understanding and for those who will read the deliberations of the Committee I would appreciate it if the representative of Dr. Davidson would co-operate with me and what I understand of the amendment which has been carried by the Committee this morning concerning clause 26. If I understood correctly, Mr. Chairman, if an objection is agreed to by the Commission, by virtue of subclause 5 of clause 26, subclause 4 would have no effect.

Mr. RODDICK: That is correct.

Mr. LACHANCE: And clause 32 would automatically come into effect.

Mr. RODDICK: That is correct. That is the interpretation of the legal draftsman.

Mr. LACHANCE: This could allow the board to sanction the bargaining unit.

Mr. RODDICK: That is correct.

Mr. LACHANCE: And the certification of two or more bargaining units if it is agreed to by the board and the certification.

Mr. RODDICK: That is correct, although I would like to respond with my interpretation of what I think you have said at this point.

Mr. LACHANCE: At the initial phase and at any subsequent bargaining negotiations.

Mr. RODDICK: Yes, that is correct.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 1 carry?

Mr. BELL (*Carleton*): No. We have a very clearcut commitment now in respect of an advisory committee? What about Pay Research Bureau? Can we get an equally clearcut commitment on pay research namely, that despite lack of statutory authority, the Pay Research Bureau will be continued and that its findings will be made available to the bargaining parties?

Mr. RODDICK: Mr. Chairman, I wish Dr. Davidson were here to answer this but I will do the best I can. I think the Committee was informed when we last met, at least it is my recollection that it was informed, that the views of the

interested staff associations, that is to say, the staff associations which have been active in relation to the work of the Pay Research Bureau in the past, were at that point being consulted by the government in respect of what the future of the Pay Research Bureau should be. I believe that all of the replies to those letters seeking advice have now been received by the President of the Treasury Board and it is my understanding that a proposal will be made very shortly to the government by the President of the Treasury Board in relation to the continuation of the Pay Research Bureau.

The Pay Research Bureau—I do not know whether to call it a costly institution, but it is an institution that costs money. I do not think that whether or not it continues is the kind of decision an official is likely to make or endeavour to commit the government on in advance; but from my own interpretation of the remarks that were made by the President of the Treasury Board on second reading, of the bill, I believe it is quite clear that he will support the proposal for its continuation.

Members of the Committee are all aware, Mr. Chairman, of the recommendations that were made by the preparatory committee and I am sure that those will be considered when that decision is made; whether or not they will be precisely adhered to, I am sure I do not know. I personally had hoped that we could have completed the consultation and been in a position for the government to make an announcement on this before the Committee folded its tents, but the letters were much longer in coming back than I had thought. The last ones only arrived this week and we have not yet taken an official position on it. I am afraid, Mr. Chairman, although that is a pretty indefinite answer that is the best that I can do on it.

Mr. BELL (*Carleton*): I think that is a very fair statement from Mr. Roddick and it is as far, obviously, as he can go. I would only like to say, Mr. Chairman, that as far as I am concerned I will insist that there be in the report of this Committee a clause in a very affirmative style advocating the continuance of the Pay Research Bureau and the making its information available to the bargaining parties. I think perhaps I might put Mr. Walker on notice so that he will be able to write as excellent a document as he obviously has since we met this morning.

Clause 1 agreed to.

Preamble agreed to.

Title agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall I report the bill?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): I would like to have a motion to reprint this bill.

Mr. WALKER: I so move.

Mr. CHATWOOD: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Now, we come to—

Mr. KNOWLES: Mr. Chairman, we did make one or two pretty important amendments.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, but I am advised by the Clerk that they are not lengthy.

Mr. WALKER: Will we move them again as amendments in the House?

An hon. MEMBER: Yes.

Mr. WALKER: We have gone to an awful lot of trouble here in trying to have a—

Mr. KNOWLES: I think we have done a very good job.

Mr. CHATWOOD: It is better to have it reprinted. Someone in the house might ask for a copy.

The JOINT CHAIRMAN (*Mr. Richard*): If the Committee wishes to you could—

Mr. WALKER: I would move—

The JOINT CHAIRMAN (*Mr. Richard*): That Bill No. C-182 be reprinted.

Mr. WALKER: I so move.

Mr. McCLEAVE: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): We shall now have a short discussion on Bill No. C-181.

On clause 32—*Regulations by Commission*.

Mr. WALKER: Before we begin, Mr. Chairman, do you have before you the proposed clause 32? There were some suggestions the other night—

The JOINT CHAIRMAN (*Mr. Richard*): Would you allow the Clerk to pass them out.

Mr. WALKER: Oh, all right.

Mr. BELL (*Carleton*): Can the proposed amendments to clause 32 appear in our proceedings at this point.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. WALKER: The change will take care of what Mr. McCleave wanted. All right, if you want to discuss it.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, seconded by Mr. Chatwood, moves that Bill No. C-181 be amended by striking out clause 32 and substituting the following:

Political
partisan-
ship.

32. (1) No deputy head and, except as authorized under this section, no employee, shall

- (a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or
- (b) be a candidate for election as a member described in paragraph (a).

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party. ^{Excepted activities.}

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate. ^{Leave of absence.}

It will be entered in the record at this point.

Mr. KNOWLES: That goes into the record?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. It will be made a part of the record at this time.

Mr. LEWIS: Mr. Chairman, if this is open for discussion—

Mr. BELL (*Carleton*): There were some suggestions of amendments of Mr. Walker's to be made first.

Mr. LEWIS: Yes.

Mr. WALKER: Mr. Chairman, may I say a word. Mr. McCleave the other night brought up this question respecting the first line, which reads:

No deputy head and except as authorized under this section—

He felt that "except as authorized under this section" had better be moved down to clause 32 (b) for more clarity and this is certainly agreeable.

Mr. RODDICK: I am sorry, Mr. Chairman, to intrude on this clause but Mr. Walker mentioned it to me last night and I spoke to the legislative draftsman. All I would like to say to the Committee is that he would not like the change made that has been proposed.

Mr. WALKER: All right, then, I will not make such a motion that Mr. McCleave wants to be made.

There was one other suggestion that at the end of clause 3 the words should be added "by the employee, if he has ceased to be a candidate". This would take care of the eventuality of a man who, being a candidate, for one reason or another before the election is held ceases to be a candidate. It was a matter that was brought up by one of the Committee members.

Mr. LEWIS: If he has "ceased to be a candidate".

Mr. WALKER: That is right. That is all for the moment, Mr. Chairman. Do I have to move the addition of those words as an amendment?

The JOINT CHAIRMAN (*Mr. Richard*): Well, are you still amending clause 32 (1) or only 32(3)? Are you still making that amendment?

Mr. LEWIS: I would treat it not as an amendment. I would include it in Mr. Walker's original amendment.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, but are you making that change now?

Mr. WALKER: Yes, "if he has ceased to be a candidate".

The JOINT CHAIRMAN (*Mr. Richard*): What about 32 (b)?

Mr. WALKER: That is at the bottom of the page.

The JOINT CHAIRMAN (*Mr. Richard*): No, but "except as authorized under this section"?

Mr. WALKER: No.

The JOINT CHAIRMAN (*Mr. Richard*): You are not making that change? There is only one change, then.

Mr. KNOWLES: He got talked out of it.

Mr. BELL (*Carleton*): It was the suggestion of Mr. Walker, was it not, that (6) might be amended by deleting some words?

Mr. WALKER: Yes, it was, but I would prefer to talk to that one when we come down to it. In discussions with the officials, they proposed something else.

Mr. LACHANCE: Mr. Chairman, are we proceeding with the first amendment to the amendment.

The JOINT CHAIRMAN (*Mr. Richard*): We are proceeding with the amendment. We have only one amendment.

Mr. WALKER: We have just the original amendment.

The JOINT CHAIRMAN (*Mr. Richard*): We are proceeding on the whole amendment.

Mr. WALKER: All right.

Mr. LEWIS: Mr. Chairman, I just want to say that as far as I am concerned the suggested amendment—Mr. Knowles will speak for himself but I know he shares the views—is totally unacceptable. In fact, during the period between the last suggestion of Mr. Walker and the present suggestion he has even dropped something that his last suggestion contained, namely, that a person could be a member of a political party as well as attending political meetings or contributing money.

I do not want to make a lengthy speech because we have discussed it many times and at great length. I know of no reason in practice or in principle for depriving public servants below a certain level, at least, of full citizenship rights, and I know of no reason that public servants below that level should be required to seek the permission of the Commission before they can be candidates. I know of no reason in logic for prohibiting a civil servant at any rank from being a member of a political party if you are going to permit him to attend political meetings and contribute money to the funds of a candidate or of a political party. I just do not see the logic of that at all.

A civil servant can be a member of a political party and be less known for his political ideas and affiliations, by choosing not to attend meetings, which is a

common failing of all citizens from which public servants are not excluded, than the person who does attend a meeting. I think we are just being fearful without good reason and we are sticking in this amendment to a tradition which is unjustified in my opinion in the modern world at all.

I have not any evidence of it with me but I have an impression that certain gentlemen who are now members of the government said in Toronto during the last election that political rights will be guaranteed. In fact I heard them state it from a public platform. I am subject to correction. I want to be absolutely sure I am accurate but I am going to state from memory, and if I am wrong or shown to be wrong I would be very glad to withdraw, that one of the members of the government who was in and out and in again made that statement to a meeting of public servants which he and I and some others addressed in Toronto.

Mr. BELL (*Carleton*): At what stage of the in and "outness" was he at that time?

Mr. LEWIS: He was about that time "in", I think. Mr. Chairman, I cannot for the life of me understand why a public servant should not be treated as a mature person. If someone tells me that if a civil servant takes a part in politics he jeopardizes his job, he creates difficulties for himself, that may well be so but let him make the choice. Let him use his judgment as every other adult is permitted to do. There are thousands of situations in a country outside the public service where political activity of one sort or another may affect the person's employment or a person's relationship with somebody in the community. I have come across them in the 30 odd years that I have been active in political work in this country. I have come across them from coast to coast, literally hundreds of situations myself, but the law does not lay upon them a prohibition. Why should that prohibition be laid upon the public servant. Why can he not be treated as an adult who has as much judgment and as much capacity to use his discretion (a) in his own welfare and (b) in the welfare of the organization which he serves. Why should he be put through a particular way of exercising his rights as a citizen?

I said in one of our in camera meetings earlier on, I was not present last night because I was held up by fog—

Mr. BELL (*Carleton*): Let us not talk about in camera meetings. It is not proper to talk about them.

Mr. LEWIS: I suppose you are right. I have said, on occasion and I want to repeat, Mr. Chairman, that I do not just see any reason for putting people in a position where in order to act in accordance with their conscience they must break the law. When I lived in Ottawa for 15 years, between 1935 and 1950, I knew personally dozens of civil servants in every rank who were in fact either members of a political party or making contributions to candidates under the table, and I am certain that you, Mr. Chairman, as a member of the parliament from this area, and Mr. Bell as a member of parliament from this area, know more people than I do because I regret to tell you that fewer of them were in the C.C.F. than there were in the Liberal party and the Conservative party.

You just pass a law and make them break it if they are to act like adults, and they do the thing in fear and trembling all the time, as has been my experience. In my constituency of York South, I have met dozens of post office workers, to give you one example, who feel free to support the candidature of

one of the candidates in the Legion Hall, of which they are members, because they can rely on their comrades not to speak about it; but they cannot admit the fact that they have made a contribution to a political party, and I tell you some of them made a contribution to my campaign and I am sure did it to my Liberal and Conservative opponents in equally large numbers.

I simply cannot in conscience vote for this and I want to move, Mr. Chairman, without any longer speech a subamendment that all the words after the word "that" in the amendment moved by Mr. Walker be deleted and the following be substituted therefor. I have even got eight or ten copies of the amendment.

Mr. WALKER: In both languages?

Mr. LEWIS: No.

Mr. KNOWLES: In the language Mr. Walker brought his in.

Mr. LEWIS: Yes, in the language Mr. Walker brought his in.

Mr. LACHANCE: Were they written by the same man?

Mr. LEWIS: No, this was written by me. Mind you, I used the other language to help me and when that has been distributed, if you will permit me, I would like to say a few words on it. There is not one for each member, I am afraid.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, seconded by Mr. Knowles, moved in amendment to Mr. Walker's amendment that Bill No. C-181 be amended by striking out clause 32 and substituting the following.

32. (1) No deputy head or chief executive officer or person employed in a managerial or confidential capacity as defined in subparagraphs (i), (ii) and (iii) of subsection (u) of section 2 of the Public Service Staff Relations Act shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party or

(b) be a candidate for election as a member described in paragraph (a).

(2) A person does not contravene subsection (1) by reason only of his being a member of a political party, attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

(3) Notwithstanding any other Act, upon application made to the Commission by a person, other than a deputy head, referred to in subsection (1), the Commission may, if it is of the opinion that the usefulness to the Public Service of such person in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to such person leave of absence without pay to seek nomination as a candidate for election as such a member, for a period ending on the day on which the results of the election are

officially declared or on such earlier day as may be requested by the employee.

(4) Notwithstanding any other Act, an employee who proposes to become a candidate in a provincial or federal election shall apply to the Commission for leave of absence without pay for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee, and the Commission shall grant such leave.

(5) Forthwith upon granting any leave of absence under subsection (3) or (4) the Commission shall cause notice of its action to be published in the *Canada Gazette*.

(6) A person or employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon terminates his employment in the Public Service.

(7) No employee or person referred to in subsection (1) shall

- (a) associate his position in the Public Service with any political activity,
- (b) speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal party or candidate, unless he is himself a candidate in an election,
- (c) engage during working hours or on the premises of the employer in any activity for or on behalf of a provincial or federal political party or candidate.

(8) Where any allegation is made to the Commission by a person referred to in subsection (1) or an employee that any deputy head or other person referred to in subsection (1) or any employee, has contravened subsection (1) or subsection (7) the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person or employee making the allegation and the deputy head or other person or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

- (a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and
- (b) in the case of any other person or employee may, if the board has decided that such person or employee has contravened subsection (1) or subsection (7), dismiss him.

(9) In the application of subsection (8) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act.

Mr. LEWIS: You will notice Mr. Chairman, that there is a misspelling in the second line of 32(1). It is intended to be "managerial". It has nothing to do with Biblical events.

Mr. KNOWLES: It was the French "manger".

The JOINT CHAIRMAN (*Mr. Richard*): I notice, Mr. Lewis, that your amendment replaces the original amendment in toto. You call this an amendment to an amendment—

Mr. LEWIS: I left the word "that".

Mr. KNOWLES: Mr. Chairman, you are technically correct on the point. We could take the trouble to draft a subamendment with (a), (b), (c) and (d) parts changing all the different sections of Mr. Walker's amendment, but I think that common sense suggested it was simpler to just put it all in front of you.

The JOINT CHAIRMAN (*Mr. Richard*): I did not want anyone to pick me up later. I have been well educated over the years by your attention to the rules, Mr. Knowles.

Mr. KNOWLES: You have even allowed this kind of thing when you have been in the chair in the House.

Mr. LEWIS: I would like to point out, Mr. Chairman, what I am aiming at. Mr. Knowles and I are not wedded to the particular wording. I drafted it, trying to keep within the framework, but the intention of this is to have three categories of people, if you like. The first is the deputy head or chief executive officer or persons employed in a managerial or confidential capacity as defined in the other bill. They may not engage in work for, and then (a) and (b) are the same as the amendment of Mr. Walker's. Subclause (2) in effect, says that a person does not contravene subclause (1) by reason only of his being a member of a political party as well as the other reasons given in Mr. Walker's amendment. Then (3) and (4) are the key clauses. We suggest that we retain the requirement to obtain permission from the Commission to be a candidate for the excluded personnel, that is, the upper echelons of civil servants, for reason which I think are obvious. If he is a management employee, or a confidential employee he should have to obtain permission from the Commission before he can be a candidate; but if he is an ordinary employee below those echelons he can decide himself to become a candidate in a provincial or federal election, but in order to do so he would have to apply for the same leave of absence and the Commission shall grant such leave.

Then paragraph (6) is the same as (4) and (5) in Mr. Walker's amendment. Then I have added subclause (7). If I may interject here, we agreed, and I personally readily agreed earlier today, that a public service organization should not carry on as an organization any political activity because I can see the difficulty there. I think there are certain things that any individual civil servant probably should not do. I do not feel so strongly about it, but it is probably better for the public service if an employee or person referred to in subclause (1) is prohibited (a) from associating his position in the public service with any political activity; (b) from speaking in public or expressing views in writing for distribution to the public on any matter that forms part of the platform of a political party or candidate; and (c) from engaging during working hours or on the premises of the employer in any activity for or on behalf of a provincial or federal political party or candidate. I think that these three prohibitions protect, in my judgment, the integrity of a public servant because you cannot associate his political activity with his position in the public service. What I am suggesting

in (7) is that he must not speak in public or write for public consumption under his name and no political activity whatever is to be carried on, on the premises of the various offices during working hours. I put it wrongly. No political activity whatever is to be carried on, on the premises of the employer, whether during working hours or not, even during lunch hours or coffee breaks, so that as far as the prohibition of the law can carry it out there is not political activity in the offices. Subclause (8) is merely an adaption of subclause (6) in Mr. Walker's amendment and subclause (9) is the same.

If I may summarize it it seems to me that this is a legitimate approach. As I said before, I am not wedded to the precise wording, nor even to the precise lines. If there were a possibility of the Committee by a majority agreeing that at some point the civil servant who does not carry any particular responsibility should be free to be a candidate and that all of them should be free to be members of a political party, attend political meetings without having the right to speak at them, because of a later prohibition, and make contributions to political parties or candidates as they like, I submit that this would be a mature way of tackling the problem and I hope that the members of the Committee may feel themselves free to support it.

The JOINT CHAIRMAN (*Mr. Richard*): I do not wish to take part in the discussion, Mr. Lewis, but (7) (1), what does that mean? Does that mean that anybody else can—

That applies only to the deputy heads or people of that class.

Mr. LEWIS: Oh, no. It applies to everybody. What I intended to say in (7) is that all public servants, those who are employees and those who are excluded from the term "employee", would be prohibited—"No employee or person referred to in subsection (1)"; the persons referred to in subsection (1) are all the rest, and if I have left any out it is a matter of drafting. That is why I keep saying that I am not wedded to the particular words.

Mr. BELL (*Carleton*): Subsection (1) applies only to persons and not to employees.

Mr. LEWIS: That is right.

(*Translation*)

Mr. LACHANCE: Mr. Chairman, I think that a member of the Committee who does not have many public servants in his own riding, or who does not come in frequent contact with public servants, might well be in a better position to discuss this matter. Mr. Lewis, and I do not blame him, has very close relationships with members of a party which also has close connections with the labour union to which a great many public servants belong through their affiliation to an organization which has asked to be affiliated to this body.

I understand that Mr. Lewis is perhaps better enlightened than other members on this matter. I do not know whether or not I am expressing myself clearly, but when he speaks of depriving citizens of a right because they do not have the right to become members of a political party, I feel I must object. A

judge is not being deprived of his rights as a citizen because he does not vote. By accepting appointment to the bench he accepts, of course, the withdrawal of his voting privilege.

Mr. LEWIS: But he is deprived.

Mr. LACHANCE: Yes, but he accepts voluntarily; it is because his position is a most particular one that this right to vote is not given him, if not actually removed from him. Employees of the Public Service, are being placed in a very bad situation. It is placing the civil servant in a situation where there is danger of his political activities conflicting with his work, if his particular political party is not the one which is governing the country.

Human beings are imperfect. This would make us feel that perhaps there might be a conflict and indeed that this could happen very often. I do not believe that we are depriving the citizen or the public servant of such a great right if we prevent him from becoming a member of a political party. This is not an absolutely necessary right, the right to vote is much more important, as has been said to elect representatives who are to govern. But the right to be a member of a political party, I do not think is as essential as all that. It is hardly worth making an issue of it and say that he is being deprived of an essential right. It is not an essential right, to my knowledge. But it is, however, placing ourselves in a position of conflict with regard to the civil servant, if we were to allow him to be a member of a political party. And even if we were to do so, I think that no member of the public service should be a member of a political party, even if he had the right to do so.

(English)

The JOINT CHAIRMAN (Mr. Richard): Are there any other comments?

Mr. BELL (Carleton): Mr. Chairman, I think it is quite clear from what I said earlier that the proposal of Mr. Walker does not coincide with the views that I hold on this subject. I have expressed myself as believing in a three-tiered structure, more or less along the same lines as it exists in the United Kingdom. Mr. Walker has made it quite clear to us that he has gone as far as he and his colleagues are prepared to go; no doubt we shall have to argue this matter out in the Commons and I do not intend to delay the Committee tonight, I would like to make the suggestion that whatever is finally adopted should be reviewed by a Committee of Parliament immediately after the next election. Let us see whether whatever we do adopt works out during the next election and that we, in our report, suggest there should be a review of the whole structure.

My views are already on record. I do not see any advantage in going through them in detail. Mr. Walker has made his position and the position of his colleagues clear, and I think we shall just have to leave it for the chamber itself.

Mr. WALKER: Mr. Chairman, last night I made my views clear when Mr. Lewis was not here, and I wonder if I could say this, Mr. Bell. You just stated that my proposal did not coincide with your personal views. I must say that my proposal does not coincide with my own personal opinions. I will explain this: Mr. Lewis' amendment tonight is not a great deal different from the one which I put before this Committee myself as a basis for discussion, but I have reluctantly come to the conclusion that—and I speak very frankly—I am out of step at the moment with the thinking of the majority of my own colleagues. I am not speaking about the government; I am speaking about the members of my party.

It could well be, I suppose, that my idea of what I thought the employees wanted just does not coincide with the lack of any demand that has been placed on me to give the rights that Mr. Lewis is speaking about to the employees. I am wondering whether, as a member of this Committee, in attempting to bring in a piece of legislation which I think is for the benefit of the public service, I should be inclined to impose my ideas on a public service which at this particular time may not be ready for it or may not want it. A year or two from now it may be different.

Mr. LEWIS: On a point of order, Mr. Chairman, I am not suggesting imposing anything on anybody, and I really do object to the suggestion that if you take out of the law the prohibition which is there now and say to people, "You have the right to do certain things if you wish" that you are imposing anything on them. A civil servant does not have to become a member of the party; he does not have to make any contribution; he does not have to be a candidate. The law does not require him to do these things, it just gives him the right to do them if, in his judgment and conscience, he wants to. I object to the word "impose".

An hon. MEMBER: He does not have to be a civil servant either.

Mr. LEWIS: He does not have to be a civil servant, either.

Mr. WALKER: Mr. Chairman, I was just explaining the workings of my mind, and it may be difficult for some members of the Committee to follow me. Do not forget that it was my original proposal that had in it the right to belong to a political party. One of the things that is bothering me is the obligation of that membership, and when you get into that area you are going down four or five avenues at once. What obligation is there for a member of a political party? The chips are down and if the party that he belongs to says, "This is our stand", as a member of that party he has an obligation, I presume, if the membership means anything, to follow that particular policy. But how can we expect this man in the daytime to come in and administer a different type of policy? These are the things that began to bother me when I looked into the whole matter.

As I say, concern has been expressed by many people that the membership in political parties will affect the capacity of the public service to discharge its responsibilities in a non-partisan manner. I do not feel this personally, but this is one of the concerns that has been expressed in this Committee. Also, I think it was expressed before this Committee—it certainly has been expressed to me personally—by officials of some of the employee organizations that membership in political parties would tarnish the public image of public servants. At any rate, my personal inclination is completely embodied in what I put forward the other day for proposals for the Committee to discuss. I have reluctantly come to the conclusion that what I suggested might be accepted willingly by many people in the public service a year, two years, three years from now, but that is up to them.

May I just make one other point. A matter that we have not discussed here at all—and I do not know whether the Committee would want to do so at this point—with any of the officials who would be concerned are the difficulties of administration embodied in the proposal that Mr. Lewis has submitted tonight. Of course I am speaking of the chairman of the Public Service Commission. I do not know what difficulties there are, but he is here if you want to question him on this point. I think it is an important point.

Mr. KNOWLES: Mr. Chairman, Mr. Lewis said I would speak for myself. I do not think that is an invitation to talk for 40 minutes, but I would like to say a few words. Like Mr. Bell and others here, I have expressed myself on this question many times both in the House and in this Committee, and it is obvious that I am in full support of the amendment which Mr. Lewis has moved and which I have had the privilege of seconding.

I would like to re-echo what Mr. Lewis said to Mr. Walker just now, not just for the purpose of underlining the point but for the purpose of getting a better perspective on this. We are not proposing that anything be imposed on a group of people; we are proposing that a right should be accorded to them to exercise or not to exercise, as they wish.

Secondly, I would like to say something in relation to some of the remarks that Mr. Lachance made. He knows how much I respect the sincerity with which he has approached this problem. But I must say with equal frankness that I do not think it behooves us—all of us being politicians and enjoying political rights—to say that we are not taking something away, something valuable, something worthwhile, from civil servants when we take away their political rights. Mr. Lachance said that it is one of the things they accept when they become civil servants. Economics of life in this world are such that people do have to have jobs and when attached to a job is a condition that you have to give up a certain right, well, you have to give up that right and I think it ill behooves us to belittle that act on our part. It seems to me that if political rights are worth something in this country all our citizens should enjoy them. As a matter of fact, it strikes me that if we are earnest and sincere in our desire to improve the image of parliament and the image of politics we should not keep it restricted to certain people, and we should not talk about participating in political activities tarnishing civil servants. I think politics is a very noble operation and that to take part in the effort to govern the country is something that should be regarded highly and not something that tarnishes a person or a group of people.

I also think that Mr. Walker is getting pretty close to insulting civil servants when he suggested that they do not now have ideas. He raises the question—and we have had this argument before—as to what a civil servant does if he belongs to a political party and, because of that membership holds certain views on matters of policy, and, then, has to come to work in the daytime and help work out or administer policies with which he disagrees. I hope that there are hundreds of civil servants who are in that position right now. They do their own thinking, have their own ideas, but recognize the kind of job that they are in and act accordingly. We have had very high placed civil servants who worked for a few years for a Liberal administration and then a few years for a Tory administration and then back again. Of course, you might quote me at some other stage, saying that there is not much difference; to support my argument tonight I will admit there is some difference. Surely if Mr. Walker contends that these people do not have ideas now this is getting pretty close to insulting them. I do not think it is impossible at all for people to belong to organizations and, as a result of that, have ideas and yet in their work-a-day life recognize their responsibilities.

In short, Mr. Chairman, if we are trying to upgrade parliament and upgrade politics I do not think that we should indulge in some of the things that have

been said here tonight. I think we should regard this as a pretty sacred and pretty important right and we should be doing our best to extend it to everyone. I think that the amendment that Mr. Lewis and I have proposed is a practical and realistic way of according to federal civil servants political rights.

Mr. WALKER: Mr. Chairman, I think I should correct one thing that Mr. Knowles said when he made the plea for the giving of what you call "political rights". In fact, the amendments placed before the Committee—not your amendment—on clause 32 do give political rights that civil servants did not have before. Now, it does not go as far or as fast as I would like.

Mr. KNOWLES: Mr. Chairman, with all respect, I think the way in which those rights are given in Mr. Walker's amendment are terribly unsatisfactory. There are far too many people excluded and even those who can get it—right down to the lowest clerk or postal employee who walks the street and who may want to exercise this kind of right as spelled out in your amendment—have to go through the proposition of persuading the Civil Service Commission to give him the right to do it, as a result of which he has to take certain penalties. I do not think that it can be said that your amendment accords political rights in a manner consistent with what those rights are. I realize the intent of what you are trying to do in your amendment but I do not think it accomplishes it. I think it sets up a complicated proposition which hardly makes it worth the while.

Mr. WALKER: Mr. Chairman, I would like to clear up this point. The impression might be from what Mr. Knowles said was that in fact my amendment was taking existing political rights away from civil servants. This is not the case; there are political rights being given to the civil servants—perhaps not on as large or as wide a scale as you would like or—

Mr. KNOWLES: Are these the rights that you thought your party would go for in the last election?

Mr. CHATWOOD: Mr. Chairman, if I may say so, I feel it is unfortunate that this second amendment by Mr. Lewis is being brought in. There has been a good deal of consideration put into the previous amendment taking into consideration what it was felt the public servants want and what they expect. I do take exception to one thing Mr. Lewis said first in his rather impassioned plea when he delivered his amendment and repeated again later giving the impression that under this amendment they were prohibited from contributing money, which is not so. Mr. Lewis, you might find it in paragraph 2.

Mr. LEWIS: I am sure I did not say this but, if I did, it was unintentional because I know it is there.

Mr. CHATWOOD: It is there and I do feel that the—

Mr. BELL (*Carleton*): What Mr. Lewis referred to is past.

Mr. CHATWOOD: He was speaking about the motion as it stood at the time. I do feel that the previous motion by Mr. Walker does not necessarily fill the particular desires of everybody because there is a great deal of variety in what each person here, I think, feels is right. However, I do think that at this time it best fills the need.

Mr. BERGER: A moment ago Mr. Knowles was quite moved when he made his plea. I understand and I am for upgrading the public servants. But from the

public point of view, I checked with my constituents. What puzzles me is this. I found out from them that they have much confidence in the public servants because they do not play in politics; at least, they hope to God that they do not. They said that because of the very unfortunate cases which we have had to face in the last few years, at least with a minority or a majority government there is protection for the public. They feel that public servants should not indulge in playing politics but should provide protection for the public. They know that over 80 per cent of public servants do not care too much about politics and they want things to stay as they are right now. They have not requested this and perhaps we are trying to be smart and are going a little too far. The people of Canada should be protected. Can you imagine what might happen if a civil servant belonging to a certain party ran for election and was not elected. Suppose that I am re-elected and I go to see that man—maybe he is in another ministry—and ask him to do something and it does not work. What do you think that I and my constituents will think? So to protect the public and to have integrity, sincerity and efficacy in the public service why should we let them play politics. As pure as we try to be there is always a little something somewhere. They are regarded by the public of Canada as people with great integrity. Maybe it is their right to a certain extent but the public has a right to be well protected too. That puzzles me and what are you going to say in answer to that.

(Translation)

Mr. ÉMARD: Mr. Chairman, only one word, the time is late and I do not want to extend the debate. There is one point that strikes me more particularly in Mr. Lewis' amendment and that is that public servants in the lower grades would have very few restrictions in so far as their political activities are concerned.

But activities of higher echelon employees would be restricted to a minimum. If as Mr. Knowles said a little while ago we want to improve the standing of politicians, why then limit—

Mr. LEWIS: You did not read it properly.

Mr. ÉMARD: Well, what I wanted to say was this: Why then limit ourselves to participation in the lower echelons of the Civil Service only? Clause 32(1) reads:

(English)

No deputy head or chief executive officer or person employed in a managerial or confidential capacity as defined in subparagraph (i) (ii) and (iii)—

(Translation)

I think by this very fact we are placing restrictions on a great many public servants.

Mr. LEWIS: The higher echelons, not the lower ones.

Mr. ÉMARD: Why them?

Mr. LEWIS: There is a reason for this, it is because they are officials who develop Government programmes.

Mr. ÉMARD: Precisely, but they are the best qualified to be candidates.

Mr. LEWIS: Perhaps.

Mr. ÉMARD: Then, why restrict it to the lower echelons?

Mr. LEWIS: There is no limit for the lower echelons.

Mr. ÉMARD: No, I realize that, but why limit ourselves to the lower echelons?

(English)

Mr. LEWIS: The principle behind it, if I may answer, is that the superior categories actually develop and plan government programs. In answer to the question asked by the hon. member, Mr. Berger, earlier, if you give a deputy head, a chief executive officer or one of the top people in a department this right, they would have to get permission from the public service commission before they could be a candidate and the public service commission would then take into account whether or not the usefulness to the public service of such persons in that position would be impaired. But if it is an ordinary clerk, a stenographer, a postal employee or the tens and tens of thousands to whom a member of parliament does not frequently refer and about whom the public does not frequently even know—

Mr. BERGER: Suppose he is a postman going from door to door every day?

Mr. LEWIS: So what? What can a postal employee do to the public? What favour do you ask of him except that he does his job. He is not the person you turn to to give somebody a better deal or to correct some grievance or anything like that.

Mr. LANGLOIS (*Chicoutimi*): Those who have the high-ranking jobs will be leaving one of these days because every day some are dying and some are retiring. However, their replacements from the ranks eventually will get the top-notch jobs. Where do you separate them?

Mr. LEWIS: All I can tell you, Mr. Langlois—and I am not saying this to be corny—is that I have confidence in the members of the public service, as I have confidence in most people in Canada, being able to use their judgment and their discretion just as well as I can use mine. When a member of the Committee tells me that it is my job to make sure that a public servant acts wisely in his own interest I say: Where in the devil do I get that right? He is a human being; he is an adult; he is a Canadian; he has just as good judgment as I have, and I want to give him the opportunity to use his judgment. I do not think that I should force my judgment on him.

Senator DENIS: Have any provincial legislatures given such rights?

Mr. LEWIS: My answer is that the Saskatchewan law, unless Mr. Thatcher has changed it recently, gave the civil servants of Saskatchewan full political rights.

Senator DENIS: Mr. Chairman, during the course of our discussion has any civil service association or any group of public servants asked for the kind of amendment suggested by Mr. Lewis? It would be helpful if we had something before us to indicate that it is a good thing to legislate that amendment.

The JOINT CHAIRMAN (*Mr. Richard*): Senator Denis, I think I can say that some of the associations made representations, not in a definite form as you say,

and these ranged from full participation to a narrow participation but without any particular detailed suggestions.

Senator DENIS: But was it a civil service association or one from outside the civil service?

The JOINT CHAIRMAN (*Mr. Richard*): Both.

Mr. HYMMEN: Mr. Chairman, I did not intend to speak on this because I think I have already made myself quite clear. I think the amendment which Mr. Lewis is introducing is attempting to provide something that the majority of the civil servants do not want.

Mr. LEWIS: We know that—

Mr. HYMMEN: Just let me finish. Secondly, I think Mr. Walker's amendment does provide two areas; the contribution of funds and also the attendance at political meetings, which I think all members of this committee agree would substantiate our feeling that civil servants are not second class citizens.

There is one question I wanted to ask Mr. Lewis so we could have his answer on the record with regard to clause 7(c) in which the provision is for civil servants to engage in political activities apart from their working hours. I was going to ask Mr. Lewis if he really believes that a civil servant who takes an active part on behalf of a political party or candidate after working hours or weekends or days off would automatically cease his activity during the working hours.

Mr. LEWIS: Well, all I can say, Mr. Chairman, is that the people who make statements—and I am sure sincere statements—about the value, the decency and reliability of our public service—and all of those adjectives apply to them because we have a good civil service in Canada, one of the best in the world—and in the next breath suggest that the same person is unreliable—in every plant in this country, in every office in this country and with every newspaper of this country, you have people carrying out policy. Everywhere there are people who during their own hours away from work carry on activities—proper, legal, decent activities, which they have to lay aside when they come to work the next morning or on Monday. They do that all the time. There are millions of Canadians who do that. Do you think the public servants are lesser people, that they are unable to be loyal to their employer and their job on Monday because they spoke on certain political ideas on Saturday.

Mr. HYMMEN: But those people are not employed by the citizens of Canada.

Mr. LEWIS: So what.

Mr. WALKER: I do not think that we are going to convince one another, Mr. Chairman.

Mr. HYMMEN: I just wanted an answer to my question.

The JOINT CHAIRMAN (*Mr. Richard*): Is the committee ready for the question? The question is on Mr. Lewis' amendment, amending Mr. Walker's proposed clause 32. All those in favour of the amendment please indicate by raising your hand. All those against? I declare the amendment lost.

Mr. KNOWLES: Can we have the vote recorded, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the committee that the vote be recorded? Mr. Knowles has asked for a recording. Those for, will you please raise your hand? Those against?

Mr. KNOWLES: More parties voted for than against.

The JOINT CHAIRMAN (*Mr. Richard*): Ten to six. The question now is on the motion of Mr. Walker. Is the committee ready for the question?

Some hon. MEMBERS: Question?

Mr. LEWIS: Mr. Chairman, I think for the record, since the committee has voted down our amendment and since Mr. Walker's amendment gives something, I do not want to oppose it and get back to the status quo. I just want to explain that that seemed to me to be the logical and responsible thing to do.

The JOINT CHAIRMAN (*Mr. Richard*): Is the committee ready for the question?

Mr. BELL (*Carleton*): I would go further and suggest that perhaps, if this is what the House adopts, when we have seen Mr. Walker's amendment in operation over one election, a parliamentary committee should take a look at this whole subject again.

Mr. KNOWLES: It does not have to be in our report.

Mr. BELL (*Carleton*): I am suggesting that should be in our report, yes.

Mr. KNOWLES: Agreed.

Mr. LEWIS: I made the statement I did because I did not want the committee to misunderstand that if we vote for Mr. Walker's amendment and then make a fuss about this on the floor of the House when the bill gets back, which will happen, there is no conflict between the two.

The JOINT CHAIRMAN (*Mr. Richard*): All those in favour of motion?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): It is unanimous.

Mr. LEWIS: Record that.

Clause 34(1)(c) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall schedules A to D carry?

Mr. BELL (*Carleton*): Are there not two consequential amendments?

The JOINT CHAIRMAN (*Mr. Richard*): No, not now.

Mr. WALKER: Yes, there are two consequential amendments right on the back of my amendment, the last page.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Mr. Walker's amendments to clause 5(d) carry?

Amendments agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 6(1) as amended by Mr. Walker's amendment carry?

Clause as amended agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Schedules A to D carry?
Schedules A to D agreed to.

Clause 1 agreed to.

Preamble agreed to.

Title agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall I report the bill—

Some hon. MEMBERS: As amended.

The JOINT CHAIRMAN (*Mr. Richard*): —as amended and reprinted?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): This concludes the examination of Bill C-170, C-181, C-182 which will be reported with some recommendations, of course, and these recommendations will have to be submitted to this committee before I report these bills to the House.

Mr. LEWIS: Will the steering committee draft a report?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I will call the steering committee to a meeting on Thursday to consider the report.

Mr. BELL (*Carleton*): Have you had an opportunity to consider when we might get started with the other reference, Mr. Chairman? Many of us are anxiously awaiting?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I have foreseen your desire and that of some other members of the committee, including Mr. Knowles particularly; that is why, in anticipation of your wish, I reserved the committee room for next week. The Clerk might speak to this because he is the one who has been in touch with prospective witnesses.

Mr. KNOWLES: Mr. Chairman, before he speaks, it is clear, is it not, that the report we make on matters arising out of these bills is separate from any report we make regarding pensions?

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes.

Mr. KNOWLES: We could have a meeting, make a report on all these incidental things, such as bargaining on parliament hill and all the rest of it, and then later make the report on the pensions?

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes.

The CLERK: We have written to four different groups: the Public Service Alliance of Canada, the Professional Institute, the Canadian Labour Congress and the Federal Superannuates National Association asking whether they desire to present briefs. Three groups have so signified to date?

The JOINT CHAIRMAN (*Mr. Richard*): Who are they?

The CLERK: The Alliance, the Professional Institute and the Superannuates. I have asked them how soon they could have their briefs prepared and in our hands so that we can arrange their appearances.

Mr. KNOWLES: Have you had any correspondence from the R.C.M.P. veterans association?

The CLERK: No.

Mr. KNOWLES: I think they had written Mr. Benson.

Mr. BELL (*Carleton*): I think they sent a brief, to the Prime Minister.

The CLERK: I might point out that the order of reference refers only to retired civil servants.

Mr. KNOWLES: Are mounted policemen civil servants?

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. BELL (*Carleton*): That is an oversight we may have to rectify.

Mr. WALKER: Will the next meeting be at the call of the chair, when the briefs are in.

The JOINT CHAIRMAN (*Mr. Richard*): When the steering committee has completed this report it can discuss the meetings for that matter.

Mr. KNOWLES: It is agreed that we get at that—

The JOINT CHAIRMAN (*Mr. Richard*): Oh yes.

Mr. BELL (*Carleton*): Are we in agreement though that we should get these bills back to the House just as fast as possible because if bargaining is to start by the 28th of February we had better be ready.

Mr. KNOWLES: But it is also agreed that we do not report the bills until we have our report on matters relating to the bills?

Mr. BELL (*Carleton*): Exactly.

Mr. KNOWLES: So that our full view is presented to the House at once.

Mr. WALKER: Right. Congratulations, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

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OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

No. 27

FRIDAY, FEBRUARY 3, 1967

Respecting

BILL C-170

An Act respecting employer and employee relations in
the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

Sixth, Seventh and Eighth Reports to the Senate
and the House of Commons

ROGER DUHAMEL, F.R.S.C.
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SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicoutimi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

REPORTS TO THE SENATE

FRIDAY, February 3rd, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service makes its sixth Report as follows:

Your Committee to which was referred the Bill C-170, intituled: "An Act respecting employer and employee relations in the Public Service of Canada", having held forty-eight meetings and having heard the evidence of forty-seven witnesses, has in obedience to the order of reference of May 31, 1966, examined the said Bill and now reports the same with the following amendments:

Clause 2

Paragraph 2(j), delete "53" and substitute "52" therefor line 19 page 2.

Insert new subparagraph 2(m)(v) after line 46 page 2:

"2(m)(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,"

Re-number subparagraph 2(m)(v) as 2(m)(vi)

Re-number subparagraph 2(m)(vi) as 2(m)(vii)

Re-number subparagraph 2(m)(vii) page 3 as 2(m)(viii);

Insert in new subparagraph 2(m)(viii) the words "or confidential" before the word "capacity" line 1 page 3,

Substitute a comma for the semicolon at the end of line 1 page 3 and add the following words immediately thereafter:

"and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament;"

Paragraph 2(n), add the words "for the purposes of this Act" after the word "employees" line 5 page 3.

Subparagraph 2(o)(i), substitute "I" for "II" line 11 page 3, and substitute the words "Treasury Board" for "separate employer concerned" lines 12 and 13 page 3.

Subparagraph 2(o)(ii), reduce the capital letters in "Public Service" line 15 page 3 to lower case; delete the comma and words "the Treasury Board" on the same line and substitute the following words therefor: "of Canada specified in Part II of Schedule A, the separate employer concerned".

Paragraph 2(p), add the words "on his own behalf or on behalf of himself and one or more other employees" after the word "employee" line 18 page 3.

Subparagraph 2(p)(i), add the words "or confidential" before the word "capacity" line 24 page 3.

Subparagraph 2(p)(ii), add the words "or confidential" before the word "capacity" line 33 page 3.

Paragraph 2(q), add the word "period" after the word "certification" in the marginal note; and delete all the words after the word "means" lines 34 to 39 inclusive page 3, substituting therefor: "in respect of employees in any occupational category, the period ending on the day specified in Column III of Schedule B applicable to that occupational category;"

Subparagraph 2(r)(iii), add the words "and foreign service" after the word "administrative" line 44 page 3.

Paragraph 2(r), delete the words "specified and defined by the Governor in Council by any order made under subsection (1) of section 26 or thereafter" lines 48 to 50 page 3.

Paragraph 2(s), substitute the words "specified and defined by the Public Service Commission under subsection (1) of section 26" for the words "within an occupational category" line 2 page 4.

Paragraph 2(u), add the words "or confidential" after the word "managerial" in the marginal note and in line 9 page 4.

Subparagraph 2(u)(i), substitute the word "the" for the word "other" line 15 page 4, and insert the word "other" after the word "any" line 16 page 4.

Subparagraph 2(u)(iv), substitute the word "administrator" for the word "officer" line 33 page 4.

Subparagraph 2(u)(v), insert the words "on behalf of the employer" after the word "formally" line 38 page 4.

Subparagraph 2(u)(vii), substitute the words "who in the opinion of the Board should not be included" for the words "for whom membership" lines 45 and 46 page 4, and delete line 47 page 4.

Clause 5

Re-number old clause as sub-clause 5(1).

Delete from the old clause the words "Part I or Part II of" line 3 page 6.

Insert in the old clause the words "Part I or Part II thereof," after "Schedule A" line 3 page 6.

Delete the words "unless there are no longer any employees employed in or under that portion or if it is a corporation excluded from the operation of Part I of the *Industrial Relations and Disputes Investigation Act*," lines 4 to 7 page 6, and add immediately after "Schedule A" the following words:

"except that where that portion

(a) no longer has any employees,

or

(b) is a corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*,

he is not required to add the name of that portion to the other part of Schedule A."

Add new sub-clause 5(2) together with marginal note:

(2) Where the Governor in Council deletes from one part of "Where Schedule A the name of any corporation that has been excluded from ^{corporation deleted from} the provisions of Part I of the *Industrial Relations and Disputes Investigation Act* and does not thereupon add the name of that ^{one part of Schedule A} corporation to the other part of Schedule A, the exclusion of that ^{and not} corporation from the provisions of Part I of that Act ceases to have ^{added to} effect." ^{other part.}

Clause 7

Delete the words "to group and classify positions therein" lines 15 and 16 and substitute the words "and classify positions therein" for the word "employees" line 16 page 6.

Clause 8

Sub-clause 8(1), add the words "or confidential" after the word "managerial" line 17 page 6.

Sub-clause 8(2), add the words "or confidential" after the word "managerial" line 15 page 7.

Delete sub-clause 8(3) and marginal note.

Clause 9

Add the words "or confidential" after the word "managerial" in lines 23 and 27 page 7 sub-clauses 9(1) and (2).

Clause 13

Sub-clause 13(1) in the French version, substitute the words "n'est pas admissible à occuper un poste de" for the words "ne peut être nommée" line 9 page 9.

Clause 16

Paragraph 16(2)(b), substitute the words "in such a manner as to ensure that the number of members" for the words ", including one member" line 30, and substitute the words "equals the number of members" for the words "and one member" line 32 page 9.

Sub-clause 16(3), add the words ", except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote" after the word "be" line 38 page 9.

Clause 17

Sub-clause 17(1), delete the words "and has supervision over and direction of the work and the staff of the Board" lines 40 and 41 page 9, and substitute the following marginal note for the old one:

"Chairman to be chief executive officer."

Sub-clause 17(2), delete the words "and other staff" from the marginal note;

Delete the words "and such other officers and employees as the Board deems necessary for the performance of its duties" lines 1 to 3 page 10;

Substitute "*Public Service Employment Act*, who shall subject to the direction of the Chairman have supervision over and direction of the work and staff of the Board" for the words "Civil Service Act" line 4 page 10.

Add a new sub-clause 17(3) and marginal note:

"Other staff (3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the *Public Service Employment Act*."

Re-number old sub-clause 17(3) as 17(4),

Delete the words "on behalf of the Board" line 5 page 10,

Delete the commas after the words "appoint" and "of" line 6, page 10,

Add the words ", subject to the approval of the Governor in Council," after the words "appoint and" line 6 page 10.

Clause 19

Paragraph 19(1)(f), add the words "in respect of a bargaining unit or any employee included therein" before the word "where" line 43 page 10;

Delete paragraph 19(1)(k) lines 24 to 29 page 11 and substitute therefor:

"(k) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;"

Clause 20

Sub-clause 20(1), substitute the word "shall" for "may" line 38 page 11.

Clause 23

Clause 23, delete the word "shall" line 29 page 13 and substitute therefor "or either of the parties may";

Substitute the words "but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof" for the words "and thereupon any proceedings in connection with that matter shall, unless the Board otherwise directs, be suspended until the question is decided by the Board" lines 31 to 34 page 13.

Clause 26

Delete Clause 26 in toto with marginal notes lines 1 to 29 inclusive page 14 and substitute therefor:

"Specification of occupational groups. 26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

Groups to be specified on basis of program of classification revision.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

When application for certification may be made.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

Bargaining units during initial certification period.

(a) all of the employees in an occupational group;

(b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or

(c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

Where objection filed.

(a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining, and

(b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

(6) During the initial certification period, in respect of each occupational category,

Times relating to commencement of collective bargaining during initial certification period.

(a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and

(b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of

employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

Other
occupational
categories.

(7) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purpose of this Act, the Board shall, at the time of making the determination,

- (a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and
- (b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

Clause 27

Delete the "'s" at the end of the word "sections" and "29 and" line 33 page 14.

Clause 28

Delete the "s" at the end of the word "sections" and "29 and" line 3 page 15 sub-clause (1).

Delete paragraph 28(1)(b) lines 11 to 18 inclusive and substitute therefor:

"(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent."

Re-number sub-clause 28(3) as Clause 29 and insert the words "of section 28" after "subsection (2)" line 20 page 15.

Clause 29

Delete old Clause 29 in toto with marginal note lines 25 to 29 inclusive page 15.

Clause 31

Substitute the words "six months" in marginal note for the words "one year".

Clause 32

Sub-clause 32(1),

Substitute "4" for "3" in the brackets, line 33 page 16.

Sub-clause 32(3),

Delete therefrom, "or whose duties or responsibilities are such that in the opinion of the Board his inclusion in the bargaining unit as a member thereof would not be appropriate or advisable" lines 3 to 6 page 17.

Clause 34

Paragraph 34(d),

Delete the words "act for the members of the organization in the regulation of relations between the employer and such members" lines 33 to 36 page 17 and substitute therefor "make the application"

Clause 35

Paragraph 35(1)(b),

Add the word "and" after the semicolon line 9 page 18.

Paragraph 35(1)(c),

Delete the word "and" after the semicolon line 13 page 18.

Delete paragraph 35(1)(d) lines 14 to 17 inclusive.

Clause 36

Delete the words "as condition of certification" from marginal note.

Sub-clause 36(1)

Substitute "Subject to sub-section (2) of section 37, every" for the words "No employee organization shall be certified by the Board as" lines 34 and 35 page 18;

Delete the words "until the employee organization has specified" line 36 and substitute the word "shall" therefor;

Add the word "specify" after the word "prescribed" line 37;

Substitute the word "it" for the words "the employee organization" lines 39 and 40;

Substitute the words "in respect of" for the words "if it is subsequently certified by the Board as bargaining agent for that" lines 40 and 41.

Sub-clause 36(2)

Substitute the words "a bargaining agent" for the words "an employee organization" line 43 page 18;

Substitute the words "in respect of" for the words "if it is subsequently certified as bargaining agent for" lines 44 and 45;

Substitute the words "bargaining agent" for the words "employee organization and if it is satisfied that the other requirements for certification established by this Act are met" lines 47 to 49;

Substitute the words "bargaining agent" for the words "employee organization" line 1 page 19;

Substitute "bargaining agent" for "employee organization" lines 6 and 7.

Sub-clause 36(3)

Delete in toto with marginal note lines 8 to 13 inclusive page 19.

Clause 37

Sub-clause 37(1)

Delete the words "certification to record" from the marginal note and substitute the words "to be recorded" therefor, after the word "disputes";

Delete the old sub-clause 37(1) lines 14 to 18 inclusive and substitute

"(1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified."

Sub-clause 37(2)

Substitute the words "a bargaining agent" for "an employee organization" line 20, page 19;

Add the words "subsection (1) of" before the word "section" line 20;

Add the words "of this section shall" after the word "subsection (1)" line 21;

Delete the words "as part of its certification as bargaining agent for a bargaining unit shall, notwithstanding that another employee organization may subsequently be certified as bargaining agent for the same bargaining unit," lines 21 to 25;

Substitute the words "from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process" for the words "during the period of three years immediately following the day on which the first collective agreement or arbitral award binding on the employer and the bargaining agent that specified the process comes into force in respect of that bargaining unit" lines 26 to 31.

Clause 38

Sub-clause 38(2)

Delete in toto with marginal note lines 38 to 45 inclusive page 19 and substitute therefor:

"Alteration to be included.

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute."

Sub-clause 38(3)

Delete in toto with marginal note lines 46 to 48 inclusive page 19 and substitute therefor:

"Effective date and duration.

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2)."

Sub-clauses 38(4) and (5)

Delete sub-clauses 38(4) and (5) in toto with marginal notes lines 1 to 16 inclusive page 20.

Clause 39

Sub-clause 39(3)

Add the word "sex," after the word "of" line 36 page 20;

Substitute the word "national" for the words "creed, colour, nationality, ancestry or place of" line 37;

Add the words "colour or religion" after the word "origin" line 37.

Clause 43

Sub-clause 43(1)

Delete the words "it appears to" after the word "time" line 3 page 23;

Add the words "is satisfied" after the word "Board" line 3;

Substitute the word "shall" for the word "may" line 6.

Clause 49

Sub-clause 49(1)

Delete the words "the employees in" line 27 page 24,

Add the words "and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36," after the word "unit" line 28.

Clause 51

Paragraph 51(a)

Delete the words "the negotiating relationship between the parties has been terminated and" lines 25 to 27 page 25.

Subparagraph 51(a)(ii)

Add the words "a collective agreement has been entered into or" after the word "and" line 41 page 25.

Clause 52

Delete Clause 52 in toto with marginal notes lines 14 to 23 inclusive page 26.

Clause 53

Re-number as Clause 52.

Clause 54

Re-number as Clause 53.

Clause 55

Sub-clause 55(1)

Substitute the words "Treasury Board" for "Minister" in the marginal note;

Re-number as Clause 54;

Delete the words "Minister who presides over the" line 37 page 26;

Substitute the words "in such a manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the *Financial Administration Act*" for "on behalf of the Treasury Board and with the approval of the Governor in Council" lines 38 and 39.

Sub-clause 55(2)

Re-number as clause 55.

Clause 56

Paragraph 56(2)(b)

Substitute the letter "C" for the letter "B" after the words "Schedule" line 38 page 27.

Clause 57

Paragraph 57(2)(b)

Substitute "(6) of section 26" for "(3)" line 4 page 28;

Delete sub-clause 57(3) in toto with marginal note lines 7 to 16 inclusive page 28;

Delete sub-clause 57(4) in toto with marginal note lines 17 to 23 inclusive page 28;

Sub-clause 57(5)

Re-number as sub-clause 57(3) and delete "or (3)" line 24.

Clause 58

Add a comma after the word "employer" line 31 page 28;

Substitute the word "on" for "and" line 31;

Add the words "and its constituent elements," after the word "thereto" line 32.

Clause 63

Sub-clause 63(1)

Substitute the words "Secretary of the Board" for the word "Chairman" line 39 page 30.

Sub-clause 63(1) French version

Substitute the word "une" for the word "aucune" line 39 page 32.

Paragraph 63(1)(a)

Delete the words "the negotiating relationship between the parties has not been terminated" lines 1 to 3 page 31 and substitute therefor "no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining".

Clause 64

Substitute "Secretary of the Board" for the word "Chairman" line 19 page 31;

Substitute the word "Secretary" for the word "Chairman" lines 20 and 22;

Substitute the words "arbitration was requested" for "negotiating relationship between them was terminated" lines 25 and 26.

Clause 67

Re-number as sub-clause 67(1).

Add new sub-clause 67(2) and marginal note:

"Where agreement subsequently reached. (2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters

in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof."

Clause 68

Delete the words "and have regard to" line 20 page 32.

Clause 70

Sub-clause 70(3)

Substitute the words "arbitration was requested in respect thereof" for "the negotiating relationship between them was terminated" lines 25 and 26 page 33;

Sub-clause 70(4)

Substitute the words "to be limited to bargaining unit" for "not to contain informational material" in the marginal note;

Delete the words "and shall not contain reasons or any material for informational purposes or otherwise that does not relate directly to the fixing of those terms and conditions" lines 30 to 32 page 33.

Clause 71

Sub-clause 71(2)

Delete the words "rendered by chairman" from the marginal note;

Substitute the words "A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof" for the words "Where not all the members of the Arbitration Tribunal agree on the terms of an arbitral award that is to be made" lines 38 to 40 page 33;

Substitute the word "of" for "rendered by" line 40.

Clause 72

Sub-clause 72(2)

Add a comma and two new paragraphs after the word "before" line 27 page 34:

- "(a) in the case of an arbitral award rendered during the initial certification period, a day six months before the day specified in Column II of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and
- (b) in any other case,"

Clause 73

Sub-clause 73(2)

Add the words "Subject to sub-section (6) of Section 26," before the word "no" line 9 page 35;

Add the words "or more than two years" after the word "year" line 12;

Delete sub-clause 73(3) and marginal note lines 14 to 24 inclusive page 35.

Clause 75

Delete the words "The Chairman may refer back to the Arbitration Tribunal any matter in dispute referred to the Arbitration Tribunal where it appears to him that the matter has not been resolved by the arbitral award made in consequence thereof" and substitute therefor "Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the matter back to the Arbitration Tribunal" Lines 35 to 39.

Clause 78

Paragraph 78(1)(a)

Substitute "52" for "53" line 22 page 36.

Sub-clause 78(2)

Add words, "but before establishing such a board the Chairman shall notify the parties of his intention to do so" after the word "agreement" line 40.

Clause 79

Sub-clause 79(5)

Substitute "Board" for the words "bargaining agent for the bargaining unit" line 41 page 37.

Clause 83

Delete the words "prepared by him" line 3 page 39.

Clause 94

Substitute the word "employee" for the word "person" lines 2, 10 and 19 page 43.

Clause 95

Sub-clause 95(1)

Add the words "Subject to any regulation made by the Board under paragraph (d) of sub-section (1) of section 99," before the word "no" line 26 page 43.

Clause 96

Paragraph 96(1)(a)

Delete marginal note and substitute therefor "Hearing of grievance."

Delete "(a)" line 3 page 44

Substitute a period for "; and" line 4.

Paragraph 96(1)(b)

Re-number as sub-clause 96(2) and add a new marginal note thereto "Decision on grievance."

Add the words "the adjudicator shall" before the word "render" line 5 page 44.

Substitute for the words "file it with the Board." after line 6 page 44 the following new paragraphs

"(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining

unit to which the employee whose grievance it is belongs,
and

- (b) deposit a copy of the decision with the Secretary of the Board."

Sub-clause 96(2)

Re-number as Sub-clause 96(3)

Delete "(a)" line 8 page 44

Substitute a comma for the semicolon line 9

Delete "(b)" and the words "of the board on a grievance" line 10

Delete the words", and shall be filed by him with the Board" lines 11 and 12

Delete old sub-clause 96(3) in toto with marginal note lines 13 to 19 inclusive page 44

Sub-clause 96(5)

Substitute the words "bargaining agent" for "employee organization" in the marginal note and lines 24-25 and 25-26 page 44.

Clause 97

Sub-clause 97(2)

Delete the words "the person whose grievance it is" line 42 page 44 and substitute therefor "and the employee whose grievance it is, is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent"

Add new sub-clause 97(3) after line 4 page 45 and marginal note

(3) Any amount that by subsection (2) is payable to the Board "Recovery. by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person."

Clause 99

Delete marginal note of sub-clause 99(1) and substitute therefor "Regulations re procedures for presentation of grievances."

Delete the words "the adjudication of grievances and the conduct of hearings thereon and, without limiting the generality of the foregoing, may make" lines 27 to 30 page 45 sub-clause 99(1) and substitute the word "including" therefor.

Insert the word "and" after the semi-colon line 40 page 45 paragraph 99(1) (d).

Delete paragraphs 99(1)(e) to (j) lines 41 to 43 inclusive page 45 and lines 1 to 16 inclusive page 46.

Re-number paragraph 99(1)(k) line 17 page 46 as paragraph 99(1)(e).

Delete the semi-colon and the word "and" line 19 page 46 and substitute a period therefor.

Delete paragraph 99(1)(1) lines 20 to 23 inclusive page 46.

Re-number sub-clause 99(2) as Sub-clause 99(4).

Insert new Sub-clauses 99(2) and (3) and marginal notes:

"Application
of regula-
tions.

(2) Any regulations made by the Board under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

Regulations
re adjudica-
tion of
grievances.

(3) The Board may make regulations in relation to the adjudication of grievances, including regulations respecting

- (a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chief adjudicator to an adjudicator;
- (b) the manner in which and the time within which boards of adjudication are to be established;
- (c) the procedure to be followed by adjudicators; and
- (d) the form of decisions rendered by adjudicators."

Clause 103

Sub-clause 103(1)

Add the words " , after affording an opportunity to the employee organization to be heard on the application," after the word "Board" line 44 page 47.

Sub-clause 103(2)

Add the words " , after affording an opportunity to the employer to be heard on the application," after the word "Board" line 8 page 48.

Clause 109

Substitute "D" for "C" after the word "Schedule" line 11 page 49.

Clause 113

Sub-clause 113(2)

Substitute the words "excludes any corporation" for "acts to, or has heretofore acted to, exclude in whole or in part a corporation established to perform any function or duty on behalf of the Government of Canada" lines 9 to 12 page 50.

Substitute "shall" for "may" line 14

Substitute the words "add the name of that corporation to Part I or Part II of Schedule A" for "in respect of that corporation or part thereof,

- (a) where it is added to Schedule A to this Act, apply, or
- (b) where it is added to Schedule A to this Act, confirm its exclusion from,

the provisions of the said Part I"

Clause 114

Delete sub-clause 114(2) in toto with marginal note lines 24 to 26 inclusive page 50 and re-number sub-clause 114(1) as Clause 114.

Schedule A

Delete the words "(except the positions therein of members of the force)" after the words "Royal Canadian Mounted Police" page 51.

Schedule B

Reletter Schedule B as Schedule C

Delete "*Civil Service Act*"

Add "Public Service Employment Act" in alphabetical order page 53

Add new Schedule B

SCHEDULE B

Initial Certification Period

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agreement may be entered into or arbitral award rendered)	Column III (Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Feb. 28, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969

Schedule C

Reletter Schedule C as Schedule D page 53.

Your Committee is concerned about the position of public servants who, under the proposed legislation (Section 2(u)), will be excluded from bargaining units because of their managerial or executive responsibilities, or because they occupy positions confidential to management.

Under the administrative and legislative procedures now in effect, staff associations that are members of the National Joint Council are authorized to make representations to the Civil Service commission and the Treasury Board with respect to salaries and other terms and conditions of employment of classified civil servants, including many who, because they have managerial responsibilities, will be excluded from bargaining units under the provisions of this legislation.

Your Committee urges the Government to establish, not later than six months after this legislation comes into effect, special administrative mechanisms and procedures which will provide those who are excluded from bargaining units with an opportunity to make representations relating to their salaries and other terms and conditions of employment, in such manner and fashion as will provide assurance that their views on these matters are taken into account and have a bearing on the determination of their salaries and other terms and conditions of employment.

For this purpose, your Committee recommends the creation of an Advisory Committee, comparable to the Franks Committee (Standing Advisory Committee for higher grades in the Civil Service) in Great Britain, which should, in its terms of reference, be required to consider the salaries and other terms and conditions of persons excluded from bargaining units in a regular and systematic fashion, to afford representatives of such persons a full opportunity to be heard during its consideration of these matters, and, with due regard to the salaries and other terms and conditions of employment that have been established for employees as the result of collective bargaining, advise the Government on the appropriateness of the salaries and other conditions of employment applicable to such persons.

Your Committee has noted that the employees of the Senate, the House of Commons and the Library of Parliament are not included in Bill C-170 but are covered by other Acts.

Your Committee recommends that consideration be given to the introduction of legislation to amend the Senate and House of Commons Act, the House of Commons Act and the Library of Parliament Act to extend to the employees thereunder advantages and rights similar to those provided public servants under Bill C-170.

Your Committee recommends that the Government consider legislation to continue the Pay Research Bureau and to provide for the data collected thereby to be available to the bargaining parties under Bill C-170.

Your Committee has ordered a reprint of the Bill, as amended.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

FRIDAY, February 3rd, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service makes its seventh Report as follows:

Your Committee to which was referred the Bill C-181, intituled: "An Act respecting employment in the Public Service of Canada", has in obedience to the order of reference of June 6, 1966, examined the said Bill and now reports the same with the following amendments:

Clause 5

Paragraph 5(a), insert the words "or from within" after the word "to" line 14 page 4.

Insert new paragraph 5(d) after line 21 page 4:

- “(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6, to render decisions on appeals made to such boards under sections 21 and 31 and to render decisions on matters referred to such boards under section 32;”

Re-letter paragraph 5(d) line 22 page 4 as paragraph 5(e).

Re-letter paragraph 5(e) line 27 page 4 as paragraph 5(f).

Clause 6

Insert the words “and inquiries under section 32” after “31” line 36 page 4 sub-clause 6(1) and delete the words “the conduct of” line 35 page 4.

Sub-clause 6(2), delete all the words after the word “opinion” line 37 page 4 and substitute the following therefor:

- “(a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this section, does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy, or
- (b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted,

the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and may thereupon appoint that person at a level that in the opinion of the Commission is commensurate with his qualifications.”

Insert new sub-clause 6(3) and marginal note before line 1 page 5:

(3) An appointment from within the Public Service may be^{“Idem.”} revoked by the Commission pursuant to subsection (2) only upon the recommendation of a board established by it to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard.”

Re-number sub-clause 6(3) line 1 page 5 as sub-clause 6(4).

Delete sub-clause 6(4) lines 4 to 9 inclusive page 5 and substitute the following therefor:

“(5) Subject to subsection (6) a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform.”

Re-number sub-clause 6(5) line 10 page 5 as sub-clause 6(6).

Clause 7

Delete comma after the word "Commission" line 24 page 5 and substitute the word "or" therefor.

Delete the words "or an officer of the Commission" line 25 page 5.

Clause 8

Delete the words "of persons to the Public Service" line 31 page 5 and substitute the following therefor: "to or from within the Public Service of persons".

Clause 10

Insert the words "or from within" after the word "to" line 1 page 6.

Insert the words "of personnel selection designed to establish the merit of candidates" after the word "process" line 5.

Clause 12

Sub-clause 12(2), insert the word "sex" and a comma thereafter in line 24 page 6 after the word "of".

New sub-clause 12(3) and marginal note, insert after line 25 page 6:

"Consulta-
tion.

(3) The Commission shall from time to time consult with representatives of any employee organization certified as bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that Act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable."

Clause 14

Delete Clause 14 and marginal note lines 37 to 40 inclusive page 6 and substitute the following therefor:

"Notice.

14. (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

Idem.

(2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases."

Clause 16

Delete sub-clause 16(2) and marginal note lines 11 to 16 inclusive page 7 and substitute the following therefor:

"Languages
in which
examination
to be
conducted.

(2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the

candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined."

Clause 21

Delete lines 23 to 32 inclusive page 9 and substitute the following therefor:

"may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment,

accordingly as the decision of the board requires."

Clause 22

Delete the words "notwithstanding any other Act," line 33 page 9.

Clause 26

Insert the words ", in writing," after the word "accepts" line 12 page 10.

Clause 27

Insert the words "for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than" after the word "than" line 15 page 10.

Clause 28

Delete sub-clause 28(4) and marginal note lines 38 to 42 inclusive page 10 and substitute the following therefor:

(4) Where a deputy head gives notice that he intends to reject an ^{Idem.} employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

(5) Notwithstanding anything in this Act, a person who ceases to ^{Idem.} be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service, and

(b) may, in any other case,

be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

Clause 31

Delete sub-clause 31(3) lines 11 to 20 inclusive page 12 and substitute the following therefor:

"(3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the employee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

- (a) notify the deputy head concerned that his recommendation will not be acted upon, or
- (b) appoint the employee to a position at a lower maximum rate of pay, or release the employee, accordingly as the decision of the board requires."

Sub-clause 31(4), delete the words "taken to the Commission" line 21 page 12 and substitute the word "made" therefor.

Clause 32

Delete Clause 32 in toto with marginal notes lines 29 to 44 inclusive page 12 and substitute therefor:

"Political
partisanship. 32. (1) No deputy head and, except as authorized under this section, no employee, shall

- (a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or
- (b) be a candidate for election as a member described in paragraph (a).

Excepted
activities

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

Leave of
absence.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate.

Notice.

(4) forthwith upon granting any leave of absence under subsection (3), the Commission shall cause notice of its action to be published in the *Canada Gazette*.

Effect of
election.

(5) An employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon ceases to be an employee.

(6) Where any allegation is made to the Commission by a person Inquiry. who is or has been a candidate for election as a member described in paragraph (a) of subsection (1), that a deputy head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

- (a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board had decided that the deputy head has contravened subsection (1), dismiss him; and
- (b) in the case of an employee, may, if the board has decided that the employee has contravened subsection (1), dismiss the employee.

(7) In the application of subsection (6) to any person, the ex-Application of ss. (6). pression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act."

Clause 45

Insert the words "the nature of any action taken by it under subsection (1) or (4) of section 6," after the word "year" line 15 page 16.

Delete the word "of" after the word "and" line 16 page 16.

There was no provision in the original Bill allowing any political activity for employees of the Public Service. Your Committee has amended the said Bill to permit certain political rights. The consensus is that the whole question of political participation by public servants should be reviewed after the next general election in the light of experience and knowledge gained to that time. Interested groups might then wish to make more specific representations for the consideration of Parliament.

Your Committee has ordered a reprint of the Bill, as amended.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

FRIDAY, February 3rd, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service makes its eighth Report as follows:

Your Committee to which was referred the Bill C-182, intituled: "An Act to amend the Financial Administration Act", has in obedience to the order of reference of June 6, 1966, examined the said Bill and now reports the same with the following amendments:

Clause 3

Insert the words "including its responsibilities in relation to employer and employee relations" after the word "management" line 45 page 2.

Insert a comma after the word "service" line 45 page 2.

Delete the words "or dismiss" line 46 page 4.

Insert the words "or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person has been given an opportunity of being heard, to dismiss any such person" immediately after the word "service" line 47 page 4.

Your Committee has ordered a reprint of the Bill, as amended.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

REPORTS TO THE HOUSE OF COMMONS

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

SIXTH REPORT

Bill C-170, An Act respecting employer and employee relations in the Public Service of Canada, was referred to your Committee on Tuesday, May 31, 1966.

Since that date, your Committee has held forty-eight meetings and heard the evidence of forty-seven witnesses. Following most helpful representations by numerous groups and individuals within and without the Public Service of Canada, your Committee undertook a detailed study of the Bill.

Your Committee has agreed to report the said Bill with the following amendments:

Clause 2

Paragraph 2(j), delete "53" and substitute "52" therefor line 19 page 2.

Insert new subparagraph 2(m)(v) after line 46 page 2:

"2(m)(v) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that Force under terms and conditions substantially the same as those of a member thereof,"

Re-number subparagraph 2(m)(v) as 2(m)(vi)

Re-number subparagraph 2(m)(vi) as 2(m)(vii)

Re-number subparagraph 2(m)(vii) page 3 as 2(m)(viii);

Insert in new subparagraph 2(m)(viii) the words "or confidential" before the word "capacity" line 1 page 3,

Substitute a comma for the semicolon at the end of line 1 page 3 and add the following words immediately thereafter: "and for the purposes of this paragraph a person does not cease to be employed in the Public Service by reason only of his ceasing to work as a result of a strike or by reason only of his discharge contrary to this or any other Act of Parliament;"

Paragraph 2(n), add the words "for the purposes of this Act" after word "employees" line 5 page 3.

Subparagraph 2(o)(i), substitute "I" for "II" line 11 page 3, and substitute the words "Treasury Board" for "separate employer concerned" lines 12 and 13 page 3.

Subparagraph 2(o)(ii), reduce the capital letters in "Public Service" line 15 page 3 to lower case; delete the comma and words "the Treasury Board" on the same line and substitute the following words therefor: "of Canada specified in Part II of Schedule A, the separate employer concerned".

Paragraph 2(p), add the words "on his own behalf or on behalf of himself and one or more other employees" after the word "employee" line 18 page 3.

Subparagraph 2(p)(i), add the words "or confidential" before the word "capacity" line 24 page 3.

Subparagraph 2(p)(ii), add the words "or confidential" before the word "capacity" line 33 page 3.

Paragraph 2(q), add the word "period" after the word "certification" in the marginal note; and delete all the words after the word "means" lines 34 to 39 inclusive page 3, substituting therefore: " , in respect of employees in any occupational category, the period ending on the day specified in Column III f Schedule B applicable to that occupational category,"

Subparagraph 2(r)(iii), add the words "and foreign service" after the word "administrative" line 44 page 3.

Paragraph 2(r), delete the words "specified and defined by the Governor in Council by any order made under subsection (1) of section 26 or thereafter" lines 48 to 50 page 3.

Paragraph 2(s), substitute the words "specified and defined by the Public Service Commission under subsection (1) of section 26" for the words "within an occupational category" line 2 page 4.

Paragraph 2(u), add the words "or confidential" after the word "managerial" in the marginal note and in line 9 page 4.

Subparagraph 2(u)(i), substitute the word "the" for the word "other" line 15 page 4, and insert the word "other" after the word "any" line 16 page 4.

Subparagraph 2(u)(iv), substitute the word "administrator" for the word "officer" line 33 page 4.

Subparagraph 2(u)(v), insert the words "on behalf of the employer" after the word "formally" line 38 page 4.

Subparagraph 2(u)(vii), substitute the words "who in the opinion of the Board should not be included" for the words "for whom membership" lines 45 and 46 page 4, and delete line 47 page 4.

Clause 5

Re-number old clause as sub-clause 5(1).

Delete from the old clause the words "Part I or Part II of" line 3 page 6.

Insert in the old clause the words "Part I or Part II thereof," after "Schedule A" line 3 page 6.

Delete the words “, unless there are no longer any employees employed in or under that portion or if it is a corporation excluded from the operation of Part I of the *Industrial Relations and Disputes Investigation Act*,” lines 4 to 7 page 6, and add immediately after “Schedule A” the following words:

“except that where that portion

(a) no longer has any employees, or

(b) is a corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act*,

he is not required to add the name of that portion to the other part of Schedule A.”

Add new sub-clause 5(2) together with marginal note:

“Where corporation deleted from one part of Schedule A and not added to other part. (2) Where the Governor in Council deletes from one part of Schedule A the name of any corporation that has been excluded from the provisions of Part I of the *Industrial Relations and Disputes Investigation Act* and does not thereupon add the name of that corporation to the other part of Schedule A, the exclusion of that corporation from the provisions of Part I of that Act ceases to have effect.”

Clause 7

Delete the words “to group and classify positions therein” lines 15 and 16 and substitute the words “and classify positions therein” for the word “employees” line 16 page 6.

Clause 8

Sub-clause 8(1), add the words “or confidential” after the word “managerial” line 17 page 6.

Sub-clause 8(2), add the words “or confidential” after the word “managerial” line 15 page 7.

Delete sub-clause 8(3) and marginal note.

Clause 9

Add the words “or confidential” after the word “managerial” in lines 23 and 27 page 7 sub-clauses 9(1) and (2).

Clause 13

Sub-clause 13(1) in the French version, substitute the words “n’est pas admissible à occuper un poste de” for the words “ne peut être nommée” line 9 page 9.

Clause 16

Paragraph 16(2) (b), substitute the words “in such a manner as to ensure that the number of members” for the words “, including one member” line 30, and substitute the words “equals the number of members” for the words “and one member” line 32 page 9.

Sub-clause 16(3), add the words “, except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote” after the word “be” line 38 page 9.

Clause 17

Sub-clause 17(1), delete the words "and has supervision over and direction of the work and the staff of the Board" lines 40 and 41 page 9, and substitute the following marginal note for the old one:

"Chairman to be chief executive officer."

Sub-clause 17(2), delete the words "and other staff from the marginal note;

Delete the words "and such other officers and employees as the Board deems necessary for the performance of its duties" lines 1 to 3 page 10;

Substitute "*Public Service Employment Act*, who shall subject to the direction of the Chairman have supervision over and direction of the work and staff of the Board" for the words "*Civil Service Act*" line 4 page 10.

Add a new sub-clause 17(3) and marginal note:

(3) Such other officers and employees as the Board deems necessary for the performance of its duties shall be appointed under the provisions of the *Public Service Employment Act*.^{Other staff}

Re-number old sub-clause 17(3) as 17(4),

Delete the words "on behalf of the Board" line 5 page 10,

Delete the commas after the words "appoint" and "of" line 6, page 10,

Add the words ", subject to the approval of the Governor in Council," after the words "appoint and" line 6 page 10.

Clause 19

Paragraph 19(1)(f), add the words "in respect of a bargaining unit or any employee included therein" before the word "where" line 43 page 10;

Delete paragraph 19(1)(k) lines 24 to 29 page 11 and substitute therefor:

"(k) the authority vested in council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 28;"

Clause 20

Sub-clause 20(1), substitute the word "shall" for "may" line 38 page 11.

Clause 23

Clause 23, delete the word "shall" line 29 page 13 and substitute therefor "or either of the parties may";

Substitute the words "but the referral of any such question to the Board shall not operate to suspend any proceedings in connection with that matter unless the Arbitration Tribunal or adjudicator, as the case may be, determines that the nature of the question warrants a suspension of the proceedings or unless the Board directs the suspension thereof" for the words "and thereupon any proceedings in connection with that matter shall, unless the Board otherwise directs, be suspended until the question is decided by the Board" lines 31 to 34 page 13.

Clause 26

Delete clause 26 in toto with marginal notes lines 1 to 29 inclusive pages 14 and substitute therefor:

"Specifica-
tion of
occupational
groups.

26. (1) The Public Service Commission shall, within fifteen days after the coming into force of this Act, specify and define the several occupational groups within each occupational category enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer, and shall thereupon cause notice of its action and of the occupational groups so specified and defined by it to be published in the *Canada Gazette*.

Groups to be
specified on
basis of
program of
classification
revision.

(2) The Public Service Commission, in specifying and defining the several occupational groups within each occupational category pursuant to subsection (1), shall specify and define those groups on the basis of the grouping of positions and employees, according to the duties and responsibilities thereof, under the program of classification revision undertaken by the Civil Service Commission prior to the coming into force of this Act.

When
application
for
certification
may be made.

(3) As soon as possible after the coming into force of this Act the Board shall, for each occupational category, specify the day on and after which an application for certification as bargaining agent for a bargaining unit comprised of employees included in that occupational category may be made by an employee organization, which day shall not, for any occupational category may be made by an employee organization, which day shall not, for any occupational category, be later than the sixtieth day after the coming into force of this Act.

Bargaining
units
during
initial
certification
period.

(4) During the initial certification period, a unit of employees in respect of whom Her Majesty as represented by the Treasury Board is the employer may be determined by the Board as a unit appropriate for collective bargaining only if that unit is comprised of

- (a) all of the employees in an occupational group;
- (b) all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group; or
- (c) all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Where
objection
filed.

(5) Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

- (a) the employee organization making the application, or any employee organization whose members include employees in the proposed bargaining unit, has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein, and, for that reason, would not constitute a unit of employees appropriate for collective bargaining, and

- (b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining.

- (6) During the initial certification period, in respect of each occupational category, ^{Times relating to commencement of collective bargaining during initial certification period.}
- (a) notice to bargain collectively may be given in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column I of Schedule B applicable to that occupational category; and
- (b) a collective agreement may be entered into or an arbitral award rendered in respect of a bargaining unit comprised of employees included in that occupational category only after the day specified in Column II of Schedule B applicable to that occupational category;

and any collective agreement entered into or arbitral award rendered during the initial certification period in respect of a bargaining unit comprised of employees included in that occupational category shall remain in effect until the day specified in Column III of Schedule B applicable to that occupational category, and no longer.

- (7) Where, during the initial certification period, an occupationally-related category of employees is determined by the Board to be an occupational category for the purpose of this Act, the Board shall, at the time of making the determination, ^{Other occupational categories.}

- (a) specify the day corresponding to that described in subsection (3) which shall apply in relation to that occupational category as though it were specified by the Board under that subsection; and
- (b) specify the days corresponding to those described in Columns I, II and III of Schedule B which shall apply in relation to that occupational category as though they were specified in Columns I, II and III of Schedule B, respectively."

Clause 27

Delete the "s" at the end of the word "sections" and "29 and" line 33 page 14.

Clause 28

Delete the "s" at the end of the word "sections" and "29 and" line 3 page 15 sub-clause (1).

Delete paragraph 28(1)(b) lines 11 to 18 inclusive and substitute therefor:

- "(b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent."

Re-number sub-clause 28(3) as Clause 29 and insert the words "of section 28" after "subsection (2)" line 20 page 15.

Clause 29

Delete old Clause 29 in toto with marginal note lines 25 to 29 inclusive page 15.

Clause 31

Substitute the words "six months" in marginal note for the words "one year".

Clause 32

Sub-clause 32(1),

Substitute "4" for "3" in the brackets, line 33 page 16.

Sub-clause 32(3),

Delete therefrom ", or whose duties or responsibilities are such that in the opinion of the Board his inclusion in the bargaining unit as a member thereof would not be appropriate or advisable" lines 3 to 6 page 17.

Clause 34

Paragraph 34(d),

Delete the words "act for the members of the organization in the regulation of relations between the employer and such members" lines 33 to 36 page 17 and substitute therefor "make the application"

Clause 35

Paragraph 35(1)(b),

Add the word "and" after the semicolon line 9 page 18.

Paragraph 35(1)(c),

Delete the word "and" after the semicolon line 13 page 18.

Delete paragraph 35(1)(d) lines 14 to 17 inclusive.

Clause 36

Delete the words "as condition of certification" from marginal note.

Sub-clause 36(1)

Substitute "Subject to sub-section (2) of section 37, every" for the words "No employee organization shall be certified by the Board as" lines 34 and 35 page 18;

Delete the words "until the employee organization has specified" line 36 and substitute the word "shall" therefor;

Add the word "specify" after the word "prescribed" line 37;

Substitute the word "it" for the words "the employee organization" lines 39 and 40;

Substitute the words "in respect of" for the words "if it is subsequently certified by the Board as bargaining agent for that" lines 40 and 41.

Sub-clause 36(2)

Substitute the words "a bargaining agent" for the words "an employee organization" line 43 page 18;

Substitute the words "in respect of" for the words "if it is subsequently certified as bargaining agent for" lines 44 and 45;

Substitute the words "bargaining agent" for the words "employee organization and if it is satisfied that the other requirements for certification established by this Act are met" line 47 to 49;

Substitute the words "bargaining agent" for the words "employee organization" line 1 page 19;

Substitute "bargaining agent" for "employee organization" lines 6 and 7.

Sub-clause 36(3)

Delete in toto with marginal note lines 8 to 13 inclusive page 19.

Clause 37

Sub-clause 37(1)

Delete the words "certification to record" from the marginal note and substitute the words "to be recorded" therefor, after the word "disputes";

Delete the old sub-clause 37(1) lines 14 to 18 inclusive and substitute

"(1) Where a bargaining agent for a bargaining unit has specified the process for resolution of a dispute as provided in subsection (1) of section 36, the Board shall record, as part of the certification of the bargaining agent for that bargaining unit, the process so specified."

Sub-clause 37(2)

Substitute the words "a bargaining agent" for "an employee organization" line 20, page 19;

Add the words "subsection (1) of" before the word "section" line 20;

Add the words "of this section shall" after the word "subsection (1)" line 21;

Delete the words "as part of its certification as bargaining agent for a bargaining unit shall, notwithstanding that another employee organization may subsequently be certified as bargaining agent for the same bargaining unit," lines 21 to 25;

Substitute the words "from the day on which any notice to bargain collectively in respect of that bargaining unit is given next following the specification of the process" for the words "during the period of three years immediately following the day on which the first collective agreement or arbitral award binding on the employer and the bargaining agent that specified the process comes into force in respect of that bargaining unit" lines 26 to 31.

Clause 38

Sub-clause 38(2)

Delete in toto with marginal note lines 38 to 45 inclusive page 19 and substitute therefor:

(2) The Board shall record an alteration in the process for resolution of a dispute made pursuant to an application under subsection (1) in the same manner as is provided in subsection (1) of section 37 in relation to the initial specification of the process for resolution of a dispute." ^{to be included.}

Sub-clause 38(3)

Delete in toto with marginal note lines 46 to 48 inclusive page 19 and substitute therefor:

(3) An alteration in the process for resolution of a dispute applicable to a bargaining unit becomes effective on the day that any notice to bargain collectively is given next following the alteration and remains in effect until the process for resolution of a dispute is again altered pursuant to subsection (2).^{Effective date and duration.}

Sub-clauses 38(4) and (5)

Delete sub-clauses 38(4) and (5) in toto with marginal notes lines 1 to 16 inclusive page 20.

Clause 39

Sub-clause 39(3)

Add the word "sex," after the word "of" line 36 page 20;

Substitute the word "national" for the words "creed, colour, nationality, ancestry or place of" line 37;

Add the words ", colour or religion" after the word "origin" line 37.

Clause 43

Sub-clause 43(1)

Delete the words "it appears to" after the word "time" line 3 page 23;

Add the words "is satisfied" after the word "Board" line 3;

Substitute the word "shall" for the word "may" line 6.

Clause 49

Sub-clause 49(1)

Delete the words "the employees in" line 27 page 24,

Add the words "and the process for resolution of a dispute applicable to that bargaining unit has been specified as provided in subsection (1) of section 36," after the word "unit" line 28.

Clause 51

Paragraph 51(a)

Delete the words "the negotiating relationship between the parties has been terminated and" lines 25 to 27 page 25.

Subparagraph 51(a)(ii)

Add the words "a collective agreement has been entered into or" after the word "and" line 41 page 25.

Clause 52

Delete Clause 52 in toto with marginal notes lines 14 to 23 inclusive page 26.

Clause 53

Re-number as Clause 52.

Clause 54

Re-number as Clause 53.

Clause 55

Sub-clause 55(1)

Substitute the words "Treasury Board" for "Minister" in the marginal note;
Re-number as Clause 54;

Delete the words "Minister who presides over the" line 37 page 26;

Substitute the words "in such manner as may be provided for by any rules or procedures determined by it pursuant to section 3 of the *Financial Administration Act*" for "on behalf of the Treasury Board and with the approval of the Governor in Council" lines 38 and 39.

Sub-clause 55(2)

Re-number as Clause 55.

Clause 56

Paragraph 56(2)(b)

Substitute the letter "C" for the letter "B" after the words "Schedule" line 38 page 27.

Clause 57

Paragraph 57(2)(b)

Substitute "(6 of section 26" for "(3)" line 4 page 28;

Delete sub-clause 57(3) in toto with marginal note lines 7 to 16 inclusive page 28;

Delete sub-clause 57(4) in toto with marginal note lines 17 to 23 inclusive page 28;

Sub-clause 57(5)

Re-number as sub-clause 57(3) and delete "or (3)" line 24.

Clause 58

Add a comma after the word "employer" line 31 page 28;

Substitute the word "on" for "and" line 31;

Add the words "and its constituent elements," after the word "thereto" line 32.

Clause 63

Sub-clause 63(1)

Substitute the words "Secretary of the Board" for the word "Chairman" line 39 page 30.

Sub-clause 63(1) French version

Substitute the word "une" for the word "aucune" line 39 page 32.

Paragraph 63(1)(a)

Delete the words "the negotiating relationship between the parties has not been terminated" lines 1 to 3 page 31 and substitute therefor "no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining".

Clause 64

Sub-clause 64(1)

Substitute "Secretary of the Board" for the word "Chairman" line 19 page 31;

Substitute the word "Secretary" for the word "Chairman" lines 20 and 22;

Substitute the words "arbitration was requested" for "negotiating relationship between them was terminated" lines 25 and 26.

Clause 67

Re-number as sub-clause 67(1).

Add new sub-clause 67(2) and marginal note:

"Where agreement subsequently reached. (2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the Arbitration Tribunal, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the Arbitration Tribunal shall be deemed not to include that matter and no arbitral award shall be rendered by the Arbitration Tribunal in respect thereof."

Clause 68

Delete the words "and have regard to" line 20 page 32.

Clause 70

Sub-clause 70(3)

Substitute the words "arbitration was requested in respect thereof" for "the negotiating relationship between them was terminated" lines 25 and 26 page 33;

Sub-clause 70(4)

Substitute the words "to be limited to bargaining unit" for "not to contain informational material" in the marginal note;

Delete the words "and shall not contain reasons or any material for informational purposes or otherwise that does not relate directly to the fixing of those terms and conditions" lines 30 to 32 page 33.

Clause 71

Sub-clause 71(2)

Delete the words "rendered by chairman" from the marginal note;

Substitute the words "A decision of a majority of the members of the Arbitration Tribunal in respect of the matters in dispute, or where a majority of such members cannot agree on the terms of the arbitral award to be rendered in respect thereof" for the words "Where not all the members of the Arbitration Tribunal agree on the terms of an arbitral award that is to be made" lines 38 to 40 page 33;

Substitute the word "of" for "rendered by" line 40.

Clause 72

Sub-clause 72(2)

Add a comma and two new paragraphs after the word "before" line 27 page 34:

- “(a) in the case of an arbitral award rendered during the initial certification period, a day six months before the day specified in Column II of Schedule B applicable to the occupational category in which the employees in respect of whom the award is made are included; and
- (b) in any other case,”

Clause 73

Sub-clause 73(2)

Add the words “Subject to sub-section (6) of Section 26,” before the word “no” line 9 page 35;

Add the words “or more than two years” after the word “year” line 12;

Delete sub-clause 73(3) and marginal note lines 14 to 24 inclusive page 35.

Clause 75

Delete the words “The Chairman may refer back to the Arbitration Tribunal any matter in dispute referred to the Arbitration Tribunal where it appears to him that the matter has not been resolved by the arbitration award made in consequence thereof” and substitute therefor “Where in respect of an arbitral award it appears to either of the parties that the Arbitration Tribunal has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within seven days from the day the award is rendered, refer the matter back to the Arbitration Tribunal” Lines 35 to 39.

Clause 78

Paragraph 78(1)(a)

Substitute “52” for “53” line 22 page 36.

Sub-clause 78(2)

Add the words, “, but before establishing such a board the Chairman shall notify the parties of his intention to do so” after the word “agreement” line 40.

Clause 79

Sub-clause 79(5)

Substitute “Board” for the words “bargaining agent for the bargaining unit” line 41 page 37.

Clause 83

Delete the words “prepared by him” line 3 page 39.

Clause 94

Substitute the word “employee” for the word “person” lines 2, 10 and 19 page 43.

Clause 95

Sub-clause 95(1)

Add the words “Subject to any regulation made by the Board under paragraph (d) of sub-section (1) of section 99,” before the word “no” line 26 page 43.

Clause 96

Paragraph 96(1)(a)

Delete marginal note and substitute therefor "Hearing of grievance."

Delete "(a)" line 3 page 44

Substitute a period for "; and" line 4.

Paragraph 96(1)(b)

Re-number as sub-clause 96(2) and add a new marginal note thereto "Decision on grievance."

Add the words "the adjudicator shall" before the word "render" line 5 page 44.

Substitute for the words "file it with the Board." after line 6 page 44 the following new paragraphs

"(a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Secretary of the Board."

Sub-clause 96(2)

Re-number as Sub-clause 96(3)

Delete "(a)" line 8 page 44

Substitute a comma for the semicolon line 9

Delete "(b)" and the words "of the board on a grievance" line 10

Delete the words ", and shall be filed by him with the Board" lines 11 and 12

Delete old sub-clause 96(3) in toto with marginal note lines 13 to 19 inclusive page 44

Sub-clause 96(5)

Substitute the words "bargaining agent" for "employee organization" in the marginal note and lines 24-25 and 25-26 page 44.

Clause 97

Sub-clause 97(2)

Delete the words "the person whose grievance it is" line 42 page 44 and substitute therefor "and the employee whose grievance it is, is represented in the adjudication proceedings by the bargaining agent for the bargaining unit to which the employee belongs, the bargaining agent"

Add new sub-clause 97(3) after line 4 page 45 and marginal note

"Recovery.

(3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Crown by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person."

Clause 99

Delete marginal note of sub-clause 99(1) and substitute therefor "Regulations re procedures for presentation of grievances."

Delete the words "the adjudication of grievances and the conduct of hearings thereon and, without limiting the generality of the foregoing, may make" lines 27 to 30 page 45 sub-clause 99(1) and substitute the word "including" therefor.

Insert the word "and" after the semi-colon line 40 page 45 paragraph 99(1) (d).

Delete paragraphs 99(1)(e) to (j) lines 41 to 43 inclusive page 45 and lines 1 to 16 inclusive page 46.

Re-number paragraph 99(1)(k) line 17 page 46 as paragraph 99(1)(e).

Delete the semi-colon and the word "and" line 19 page 46 and substitute a period therefor.

Delete paragraph 99(1)(1) lines 20 to 23 inclusive page 46.

Re-number sub-clause 99(2) as Sub-clause 99(4).

Insert new Sub-clauses 99(2) and (3) and marginal notes:

(2) Any regulations made by the Board under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

(3) The Board may make regulations in relation to the adjudication of grievances, including regulations respecting

(a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chief adjudicator to an adjudicator;

(b) the manner in which and the time within which boards of adjudication are to be established;

(c) the procedure to be followed by adjudicators; and

(d) the form of decisions rendered by adjudicators."

Clause 103

Sub-clause 103(1)

Add the words ", after affording an opportunity to the employee organization to be heard on the application," after the word "Board" line 44 page 74.

Sub-clause 103(2)

Add the words ", after affording an opportunity to the employer to be heard on the application," after the word "Board" line 8 page 48.

Clause 109

Substitute "D" for "C" after the word "Schedule" line 11 page 49.

Clause 113

Sub-clause 113(2)

Substitute the words "excludes any corporation" for "acts to, or has heretofore acted to, exclude in whole or in part a corporation established to perform any function or duty on behalf of the Government of Canada" lines 9 to 12 page 50.

Substitute "shall" for "may" line 14

Substitute the words "add the name of that corporation to Part I or Part II of Schedule A" for "in respect of that corporation or part thereof,

(a) where it is added to Schedule A to this Act, apply, or

(b) where it is added to Schedule A to this Act, confirm its exclusion from,

the provisions of the said Part I"

Clause 114

Delete sub-clause 114(2) in toto with marginal note lines 24 to 26 inclusive page 50 and re-number sub-clause 114(1) as Clause 114.

Schedule A

Delete the words "(except the positions therein of members of the force)" after the words "Royal Canadian Mounted Police" page 51.

Schedule B

Reletter Schedule B as Schedule C

Delete "*Civil Service Act*"

Add "*Public Service Employment Act*" in alphabetical order page 53

Add new Schedule B

SCHEDULE B

Initial Certification Period

	Column I (Day after which notice to bargain collectively may be given)	Column II (Day after which collective agreement may be entered into or arbitral award rendered)	Column III (Day on which collective agreement or arbitral award ceases to be in effect)
Operational Category	Feb. 28, 1967	Mar. 31, 1967	Sept. 30, 1968
Scientific and Professional Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Technical Category	Oct. 31, 1967	Dec. 31, 1967	June 30, 1969
Administrative and Foreign Service Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969
Administrative Support Category	Jan. 31, 1968	Mar. 31, 1968	Sept. 30, 1969

Schedule C

Reletter Schedule C as Schedule D page 53.

Your Committee is concerned about the position of public servants who, under the proposed legislation (Section 2(u)) will be excluded from bargaining units because of their managerial or executive responsibilities, or because they occupy positions confidential to management.

Under the administrative and legislative procedures now in effect, staff associations that are members of the National Joint Council are authorized to make representations to the Civil Service Commission and the Treasury Board with respect to salaries and other terms and conditions of employment of classified civil servants, including many who, because they have managerial responsibilities, will be excluded from bargaining units under the provisions of this legislation.

Your Committee urges the Government to establish, not later than six months after this legislation comes into effect, special administrative mechanisms and procedures which will provide those who are excluded from bargaining units with an opportunity to make representations relating to their salaries and other terms and conditions of employment, in such manner and fashion as will provide assurance that their views on these matters are taken into account and have a bearing on the determination of their salaries and other terms and conditions of employment.

For this purpose, your Committee recommends the creation of an Advisory Committee, comparable to the Franks Committee (Standing Advisory Committee for the higher grades in the Civil Service) in Great Britain, which should, in its terms of reference, be required to consider the salaries and other terms and conditions of persons excluded from bargaining units in a regular and systematic fashion, to afford representatives of such persons a full opportunity to be heard during its consideration of these matters, and, with due regard to the salaries and other terms and conditions of employment that have been established for employees as the result of collective bargaining, advise the Government on the appropriateness of the salaries and other conditions of employment applicable to such persons.

Your Committee has noted that the employees of the Senate, the House of Commons and the Library of Parliament are not included in Bill C-170 but are covered by other Acts.

Your Committee recommends that consideration be given to the introduction of legislation to amend the Senate and House of Commons Act, the House of Commons Act and the Library of Parliament Act to extend to the employees thereunder advantages and rights similar to those provided public servants under Bill C-170.

Your Committee recommends that the Government consider legislation to continue the Pay Research Bureau and to provide for the data collected thereby to be available to the bargaining parties under Bill C-170.

Your Committee has ordered a reprint of the Bill, as amended.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (*Issues Nos. 6 to 14 inclusive, 18 to 23 inclusive, 25 and 26*) is appended.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman.

Presented Friday, February 3, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

SEVENTH REPORT

Bill C-181, An Act respecting employment in the Public Service of Canada, was referred to your Committee on Monday, June 6, 1966.

Your Committee has agreed to report the said Bill with the following amendments:

Clause 5

Paragraph 5(a), insert the words "or from within" after the word "to" line 14 page 4.

Insert new paragraph 5(d) after line 21 page 4:

- "(d) establish boards to make recommendations to the Commission on matters referred to such boards under section 6, to render decisions on appeals made to such boards under sections 21 and 31 and to render decisions on matters referred to such boards under section 32;"

Re-letter paragraph 5(d) line 22 page 4 as paragraph 5(e).

Re-letter paragraph 5(e) line 27 page 4 as paragraph 5(f).

Clause 6

Insert the words "and inquiries under section 32" after "31" line 36 page 4 sub-clause 6(1) and delete the words "the conduct of" line 35 page 4.

Sub-clause 6(2), delete all the words after the word "opinion" line 37 page 4 and substitute the following therefor:

- "(a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to authority granted by it under this section, does not have the qualifications that are necessary to perform the duties of the position he occupies or would occupy, or
- (b) that the appointment of a person to or from within the Public Service pursuant to authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted,

the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and may thereupon appoint that person at a level that in the opinion of the Commission is commensurate with his qualifications."

Insert new sub-clause 6(3) and marginal note before line 1 page 5:

(3) An appointment from within the Public Service may be ^{"Idem.} revoked by the Commission pursuant to subsection (2) only upon the recommendation of a board established by it to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard."

Re-number sub-clause 6(3) line 1 page 5 as sub-clause 6(4).

Delete sub-clause 6(4) lines 4 to 9 inclusive page 5 and substitute the following therefor:

"(5) Subject to subsection (6) a deputy head may authorize one or more persons under his jurisdiction to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform."

Re-number sub-clause 6(5) line 10 page 5 as sub-clause 6(6).

Clause 7

Delete comma after the word "Commission" line 24 page 5 and substitute the word "or" therefor.

Delete the words "or an officer of the Commission" line 25 page 5.

Clause 8

Delete the words "of persons to the Public Service" line 31 page 5 and substitute the following therefor: "to or from within the Public Service of persons".

Clause 10

Insert the words "or from within" after the word "to" line 1 page 6.

Insert the words "of personnel selection designed to establish the merit of candidates" after the word "process" line 5.

Clause 12

Sub-clause 12(2), insert the word "sex" and a comma thereafter in line 24 page 6 after the word "of".

New sub-clause 12(3) and marginal note, insert after line 25 page 6:

(3) The Commission shall from time to time consult with representatives of any employee organization certified as bargaining agent under the *Public Service Staff Relations Act* or with the employer as defined in that Act, with respect to the selection standards that may be prescribed under subsection (1) or the principles governing the appraisal, promotion, demotion, transfer, lay-off or release of <sup>"Consulta-
tion."</sup>

employees, at the request of such representatives or of the employer or where in the opinion of the Commission such consultation is necessary or desirable.”

Clause 14

Delete Clause 14 and marginal note lines 37 to 40 inclusive page 6 and substitute the following therefor:

“Notice. 14. (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.

Idem. (2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases.”

Clause 16

Delete sub-clause 16(2) and marginal note lines 11 to 16 inclusive page 7 and substitute the following therefor:

“Languages in which examination to be conducted. (2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12 except language, shall be conducted in the English or French language or both, at the option of the candidate, and when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which his qualifications are to be determined.”

Clause 21

Delete lines 23 to 32 inclusive page 9 and substitute the following therefor:

“may, within such period as the Commission prescribes, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board’s decision on the inquiry the Commission shall,

(c) if the appointment has been made, confirm or revoke the appointment, or

(d) if the appointment has not been made, make or not make the appointment,

accordingly as the decision of the board requires.”

Clause 22

Delete the words “notwithstanding any other Act,” line 33 page 9.

Clause 26

Insert the words “, in writing,” after the word “accepts” line 12 page 10.

Clause 27

Insert the words "for reasons over which, in the opinion of the deputy head, the employee has no control or otherwise than" after the word "than" line 15 page 10.

Clause 28

Delete sub-clause 28(4) and marginal note lines 38 to 42 inclusive page 10 and substitute the following therefor:

(4) Where a deputy head gives notice that he intends to reject an ^{"Idem.} employee for cause pursuant to subsection (3) he shall furnish to the Commission his reasons therefor.

(5) Notwithstanding anything in this Act, a person who ceases to ^{Idem.} be an employee pursuant to subsection (3)

(a) shall, if the appointment held by him was made from within the Public Service, and

(b) may, in any other case, be placed by the Commission on such eligible list and in such place thereon as in the opinion of the Commission is commensurate with his qualifications."

Clause 31

Delete sub-clause 31(3) lines 11 to 20 inclusive page 12 and substitute the following therefor:

"(3) Within such period after receiving the notice in writing mentioned in subsection (2) as the Commission prescribes, the employee may appeal against the recommendation of the deputy head to a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission shall,

(a) notify the deputy head concerned that his recommendation will not be acted upon, or

(b) appoint the employee to a position at a lower maximum rate of pay, or release the employee, accordingly as the decision of the board requires."

Sub-clause 31(4), delete the words "taken to the Commission" line 21 page 12 and substitute the word "made" therefor.

Clause 32

Delete Clause 32 in toto with marginal notes lines 29 to 44 inclusive page 12 and substitute therefor:

32. (1) No deputy head and, except as authorized under this ^{"Political partisanship.} section, no employee, shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or

(b) be a candidate for election as a member described in paragraph (a).

Excepted
activities.

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (a) of subsection (1) or money for the funds of a political party.

Leave of
absence.

(3) Notwithstanding any other Act, upon application made to the Commission by an employee the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (a) of subsection (1), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as such a member, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate.

Notice.

(4) Forthwith upon granting any leave of absence under subsection (3), the Commission shall cause notice of its action to be published in the *Canada Gazette*.

Effect of
election.

(5) An employee who is declared elected as a member described in paragraph (a) of subsection (1) thereupon ceases to be an employee.

Inquiry.

(6) Where any allegation is made to the Commission by a person who is or has been a candidate for election as a member described in paragraph (a) of subsection (1), that a deputy head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commission,

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection (1), dismiss him; and

(b) in the case of an employee, may, if the board has decided that the employee has contravened subsection (1), dismiss the employee.

Application
of ss. 6.

(7) In the application of subsection (6) to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this or any other Act."

Clause 45

Insert the words "the nature of any action taken by it under subsection (1) or (4) of section 6," after the word "year" line 15 page 16.

Delete the word "of" after the word "and" line 16 page 16.

There was no provision in the original Bill allowing any political activity for employees of the Public Service. Your Committee has amended the said Bill to permit certain political rights. The consensus is that the whole question of political participation by public servants should be reviewed after the next general election in the light of experience and knowledge gained to that time. Interested groups might then wish to make more specific representations for the consideration of Parliament.

Your Committee has ordered a reprint of the Bill, as amended.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (Issues Nos. 6 to 8 inclusive, 10 to 12 inclusive, 14 to 17 inclusive, 23, 25 and 26) is appended.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman.

Presented Friday, February 3, 1967.

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

EIGHTH REPORT

Bill C-182, An Act to amend the Financial Administration Act was referred to your Committee on Monday, June 6, 1966.

Your Committee has agreed to report the said Bill with the following amendments:

Clause 3

Insert the words "including its responsibilities in relation to employer and employee relations" after the word "management" line 45 page 2.

Insert a comma after the word "service" line 45 page 2.

Delete the words "or dismiss" line 46 page 4.

Insert the words "or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person has been given an opportunity of being heard, to dismiss any such person" immediately after the word "service" line 47 page 4.

Your Committee has ordered a reprint of the Bill, as amended.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (Issues Nos. 6 to 8 inclusive, 13, 14, 24 to 26 inclusive) is appended.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman.

Presented Friday, February 3, 1967.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

No. 28

THURSDAY, FEBRUARY 9, 1967

Respecting
PENSIONS

WITNESSES:

Messrs. H. D. Clark, Director of Pensions and Social Insurance Division;
C. E. Caron, Assistant Director, Superannuation Branch, Department
of Finance; E. E. Clarke, Chief Actuary, Insurance Department.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicoutimi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(HOUSE OF COMMONS)

TUESDAY, January 10, 1967.

Ordered,—That the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be empowered to inquire into and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act; and

That a Message be sent to the Senate informing Their Honours of this resolution and requesting that House, if it concurs, to authorize the committee to inquire into and report upon this matter.

Attest.

LÉON-J. RAYMOND,

The Clerk of the House of Commons.

(SENATE)

WEDNESDAY, February 1, 1967.

The Honourable Senator Bourget, P.C., moved, seconded by the Honourable Senator Macdonald, P.C.:

That the Senate do agree that the Special Joint Committee of the Senate and House of Commons on the Public Service be empowered to inquiry into and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The question being put on the motion, it was—
Resolved in the affirmative.

MINUTES OF PROCEEDINGS

THURSDAY, February 9, 1967.

(49)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.12 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Fergusson, MacKenzie (5)

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Hymmen, Knowles, Lewis, McCleave, Orange, Patterson, Richard, Tardif, Walker (12).

In attendance: Messrs. H. D. Clark, Director of Pensions and Social Insurance, and C. E. Caron, Assistant Director, Superannuation Branch, Department of Finance; Mr. E. E. Clarke, Chief Actuary, Department of Insurance.

The representatives of the Departments of Finance and Insurance briefed the Committee on the Superannuation Act and Account.

The Committee agreed to print the Report on the Administration of the Public Service Superannuation Act for the Fiscal Year ended March 31, 1966, as an appendix to the proceedings. (*See Appendix W*)

The Clerk of the Committee advised that certificates had been filed by Mr. Chatterton requesting the presence of certain officials of the Federal Superannuates National Association as witnesses.

Moved by Mr. Knowles, seconded by Mr. Bell,

Resolved,—That reasonable living and travelling expenses be paid to the 1st Vice-President, the 2nd Vice-President and the National Secretary-Treasurer of the Federal Superannuates National Association, who have been called to appear before the Committee on Tuesday, February 14, 1967.

At 12.28 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY February 9, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Madame senator, honourable senators and members of the House of Commons, this joint Committee—which is one of the most active committees in the history of the House so far as the order of reference to civil servants is concerned—will, after having completed this order, have covered for the first time in the history of this Parliament, all the relationships of civil servants to government. At this time, I would like to recall that last year we did deal with the Superannuation Act, and we have now reported to the House three other bills which are of a new character in the relationship of civil servants to government and to Parliament.

This morning, the order of reference reads that the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be empowered to inquire and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act. If we are successful in completing our inquiry that would, I think, be the crowning effort of this Committee because at that time we will have inquired into all phases of the activities of civil servants in Canada.

Mr. WALKER: In office hours.

The JOINT CHAIRMAN (*Mr. Richard*): There is, however, another group. I do not want to anticipate more work, but there is another group which the Minister has just referred to me a few days ago in a letter of February 3. In his letter he mentions, I think, it was clearly an oversight as a supplementary reference to this matter that it did not include a reference to the armed forces and the Royal Canadian Mounted Police. With the permission of the Committee, therefore, I think I should be allowed to request the Minister to enlarge his order of reference so that at some time after we dispose of the first order, we should be allowed to examine the case of superannuated members of the armed forces and the Royal Canadian Mounted Police.

Mr. KNOWLES: While we are enlarging it, are there any others in the category of retired employees of the government?

The JOINT CHAIRMAN (*Mr. Richard*): I do not wish to make suggestions, but I think Mr. Knowles has in mind some of the problems which we all have individually, and I as wondering whether we could not ask the Minister to give us an even broader reference as a third group anybody else who might be classified as a pensioner—if that is the proper term—of the government in any activities or employment that he may have had with the government.

Mr. KNOWLES: Anyone who is a pensioner of the government on the basis of employment.

The JOINT CHAIRMAN (*Mr. Richard*): That is right.

Mr. McCLEAVE: That includes, for example, certain widows; some of former cabinet ministers' some of former mounted police officers who lost their lives at an early age of service. Did you have this in mind, Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): I did not have this in mind particularly—

Mr. McCLEAVE: These are usually statutory.

The JOINT CHAIRMAN (*Mr. Richard*): —although I see we have one with us now—Mr. Bell is a former cabinet minister—but I do not know; there will be no widow for a long time.

Mr. McCLEAVE: The statutory payments, for example, to the widow of a former minister of national defence who is one of those receiving a statutory pension seem very, very small to me. I was wondering whether the terms would be broad enough to include her?

The JOINT CHAIRMAN (*Mr. Richard*): I would hesitate to place this Committee in the position that we are inquiring really into that type of problem. As I understood in the beginning, we are applying ourselves more to the problem of regular employees of the Crown and pensioners of the crown.

Mr. KNOWLES: I think there are a number of other acts that came into the schedule when we were dealing with bill No. C-191 last year concerning diplomatic employees and maybe some others. All I am suggesting is that Mr. Benson's further term of reference name not just two other acts, but the kind of reference that would include any persons on pensions based on employment with the government.

The JOINT CHAIRMAN (*Mr. Richard*): You want an omnibus reference, would not that be satisfactory?

Mr. KNOWLES: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): That does not stop us at a future time if we have time to sit—

Mr. KNOWLES: I am sure we are all very glad that Mr. Benson made the suggestion that the RCMP and armed forces pensioners be included.

The JOINT CHAIRMAN (*Mr. Richard*): Now, this morning, with us are Mr. H. D. Clark, Director of Pensions and Social Insurance, Mr. E. E. Clarke, the actuary, and Mr. C. E. Caron who is in charge of administration. I understand Mr. Clark, the Director, has an opening statement which he wishes to make at this time.

Mr. H. D. Clark (Director of Pensions and Social Insurance, Department of Finance): Thank you, Mr. Chairman, honourable senators and members of the House of Commons. I have been requested to prepare an explanation of the various superannuation provisions applying to retired civil servants or their surviving dependents. In doing so, I thought it would be helpful to members of this Committee if I were to sketch as briefly as possible the development of the more important of these provisions over the years since Confederation.

The first Civil Service Superannuation Act was passed in 1870 and was intended primarily to provide an easy means of dispensing with the services of

employees after they had passed their useful periods of employment. The benefits under this first Act were based on the average salary over the last three years of service and were calculated at the rate of 2 per cent of this average for each year of service up to a maximum of 35 years.

At that time there was no provision for dependents' benefits nor, in fact, were such provisions made for over 50 years. Employees were required to contribute 4 per cent of salary when the salary was \$600 and over, or 2½ per cent if the salary was less than \$600. So you will appreciate the average salary level with which they were dealing in those days. It was thought at the time that no other contribution would be required, and so there was no provision for a government contribution or the crediting of interest on the fund created by the excess of contributions over the benefits. The optimistic point of view was again evident in 1873 when, presumably, because of the size of the initial excess of contributions over benefits, the Act was amended by reducing the already low contribution rates to 2 per cent when the salary was \$600 or over, and to 1¼ per cent if it was below \$600.

However, this optimism was short lived, for over the next 20 years the picture changed completely. By 1892, the fund was losing heavily, for in that year some \$250,000 was paid out in benefits compared to contributions of only some \$50,000. Of course, they were dealing in much smaller figures in those days, but a loss of \$200,000 was a matter of great concern. This was too much for the Parliament of the day, so that steps were taken in 1893 to increase the revenues of the fund by raising the contribution rates for future entrants, but only to 3½ per cent for those earning \$600 and over and to 3 per cent for lower salaries. In addition, provision was made for the crediting of interest to the fund for the first time.

These measures did not substantially improve the financial position of the superannuation fund, with the result that in 1898 Parliament took the perhaps extreme step of closing the original act to new entrants for whose benefit a new Civil Service Retirement Act was enacted in its place. This new Act avoided the unexpected deficits of its predecessor by establishing a retirement fund which still exists and provided for contributions by the employees alone, while the government credited interest on their contributions year by year. The sole benefit which an employee received from this fund on retirement was, then, a return of his contributions together with the interest which they had earned.

However, as you would expect, the absence of pension benefits under this new legislation brought back the problems which had led to the original act in 1870. As time went on and this post-1898 group of permanent employees increased and reached normal retirement age, departments were understandably reluctant to retire them without a pension and so retained many of them in the service after they should have been retired either on account of age or ill health.

This situation led to the passage of the Public Service Retirement Act of 1920 as an interim measure to make it possible to retire these older people on pension. By way of illustrating this problem, that Act made it possible to retire 679 employees who were then over the age of 70. Of these 12 were aged 85 to 89 and 4 were 90 to 92, so that the retirement fund approach obviously failed.

The ensuing years saw the preparation and ultimately the passing of the second Civil Service Superannuation Act of 1924, which was designed so as to

overcome both the financing and the staff retirement problems which had plagued the previous legislation. Accordingly, contributions were set at the higher level of 5 per cent of salary by the employees and the old benefit formula was changed to provide for the calculation of the average salary on the last ten instead of on the last three years for new permanent employees. On the other hand, as an improvement, benefits for widows and surviving children were introduced to the benefit picture for the first time. As a transitional measure, certain permanent employees who were not covered by the original Civil Service Superannuation Act of 1870, but who joined the new plan by July 19, 1927, were given the benefit of the five-year average salary formula for calculating their benefits.

At that time it was anticipated that the combination of a less favourable benefit formula together with the higher rate of contributions by employees which were to be matched by the government and the payment of interest on the balance of the fund, would avoid the deficits of the original Act. However, by 1939-40, Parliament was satisfied once again that this higher rate of contribution was still too low in the case of male employees, and so approved a sliding scale of contributions of 5, 5½ and 6 per cent depending on the salary level in the case of new male contributors.

As several members of this Committee will recall, the Civil Service Superannuation Act of 1924 was replaced on January 1, 1954, by the present Public Service Superannuation Act. It, by the way, has been subsequently amended, but the title is the same as in 1954. In so far as contributions and the benefit formula were concerned, the principle change was to increase the contribution rates for all male employees to 6 per cent. The only change in the benefit formula was to provide for the calculation of the average salary over the best ten years instead of the last ten years. More recently, it will be recalled, the benefit formula for persons retiring on and after July 13, 1960, was improved by reducing the number of years over which the average salary was calculated from the best ten to the best six. At the same time, the male contribution rate was increased to 6½ per cent, while it was still found possible to leave the rate for female employees at 5 per cent.

Since then the major amendments to the Public Service Superannuation Act were those relating to co-ordination with the Canada Pension Plan which were approved earlier in this session of Parliament following consideration of them by this Committee.

From the foregoing, Mr. Chairman, you will have observed that the original concept of paying for the benefits, so far as possible, out of the contributions of active employees no longer proved acceptable when Parliament found that in time it had to appropriate far greater amounts in order to pay the pensions of retired civil servants. This led to the development of the new Civil Service Superannuation Act in 1924 which was intended to provide a funded pension plan under which the employees and the government would pay equal contributions in respect of current service and interest would be credited by the government on the balance of the fund.

It was hoped that this approach would prevent the recurrence of the situation which existed around the end of the last century when the government was faced with budgetary expenses far in excess of employee contributions in

order to pay the pensions of those who had retired. As members of the Committee will know from reading the various annual reports on the administration of the Act, as well as the reports on the quinquennial valuation of the Superannuation account, these hopes did not materialize. A number of factors combine to require much higher contributions from the government than those resulting from a matching of the employee contributions in order to meet the liabilities of this plan. This became evident to Parliament and the public as a whole at the time of the tabling of the actuarial report on the fund during the year 1951. This led to the adoption of the policy of showing, in the statement of the accounts of the fund, the full known liability as estimated by the chief actuary of the Department of Insurance, and as reported to the Minister and, in turn, to parliament from time to time.

Just by way of illustration, before this new policy started, on March 31, 1950, the balance to the credit of the superannuation account was \$103.5 million and in the annual report, which was tabled yesterday, the balances at March 31, 1966, had gone up to \$2,390 million; in other words, an increase of about \$2.3 billion over the 16 years since the new policy was adopted. This of course largely represents credits by the government from time to time over the years, but it reflects the additional liability on which Mr. Ted Clarke, the chief actuary of the Department of Insurance, will be speaking later this morning.

One of the more important of the factors which contributed to this situation was the series of general salary increases which commenced in the late 1940's and led to the payment of pensions much higher than the normal contribution structure was intended to cover. This in turn led to the statutory requirements which now appear in the Act for additional contributions by the government from time to time as reflected in the estimates, the public accounts, and the annual reports, the latest of which as I mentioned earlier, was tabled only yesterday in the House of Commons.

This brings me to the end of the somewhat abbreviated history of almost a hundred years of superannuation for federal civil servants, and I might say here that looking at the terms of reference of the committee I dealt only with the basic provisions in the various superannuation and retirement Acts. Any question of providing for an increase in pensions after retirement has been regarded as one which should be considered apart from the basic Acts and the status of the various superannuation accounts.

Thus, the present Public Service Pension Adjustment Act provides for certain increases in pensions with the cost of these increases being treated as a budgetary charge quite independent of the superannuation account to which the basic pension itself is charged. This Act of 1959 which replaced regulations made under a vote in an Appropriation Act in 1958, provided increases in pensions of up to 32 per cent in the cases of those who retired before June 1, 1953. This was subject, however, to the limitation that the pension in the case of the former contributor would not be increased beyond \$3,000 and in the case of a widow beyond \$1,500, subject also to maximum increases of \$640 in the case of the former civil servant or \$320 in the case of the widow. The way in which these percentages were applied, as you will recall from the legislation of the time, was on a sliding scale which decreased from the maximum of 32 per cent for those who retired in 1945 and earlier to zero at a variety of dates depending upon the pension formula which applied to these employees.

Just to sum up, the percentage adjustments were made on a series of sliding scales which depended upon the date of retirement and the pension formula applicable to the pensioner. Since the basic pension formula gave a better pension to a person whose pension was based on his average salary, for example, over six years rather than over ten, the Pension Adjustment Act provided a more favourable adjustment in respect of those whose average salary was based on the longer period, thus compensating for the greater increase in the cost of living and, incidentally, of salary during the period over which this calculation was made.

Now, just to give you an idea of the amounts involved, I have mentioned the 32 per cent ceiling for those that retired in 1945 and earlier coming down to zero, in some cases, in 1953 and in other cases as early as 1948, where the pension was based on the salary at the date of retirement. The increased benefits were originally estimated to cost about \$3 million a year and then these costs would taper off over the years. These estimates have proven very accurate. I believe the figure is now down around \$2 million a year that is being spent on these increases under the old legislation.

Now, I should also mention, as you will recall from what the Chairman said at the start of the meeting, that the Pension Adjustment Act was not confined to civil servants and so it had to reflect the provision of other statutes relating, for example, to members of the armed forces and the RCMP. I do not recall that we had to apply it to any former members of the diplomatic corps who were under the Diplomatic Service Superannuation Act, and I know it did not apply to former members of Parliament under the Members of Parliament Retiring Allowances Act. I doubt very much that it applied to the Judges Act which is another one which might come in the category which you would consider, but this is something that could be examined later.

Thus, there was, as you will recall, a somewhat complex series of tables included in the law. All in all there were six columns of different percentages based on the pension formula, but these were required to give effect to the pension adjustment policy in relation to the variety of formulae which were developed over the years as described in the earlier part of my explanation.

Mr. Chairman, I feel that this is the extent of what, at least for this morning, I was asked to cover. Mr. Caron is going to speak in relation to the annual report that was tabled yesterday and other administrative matters, and we thought that Mr. Ted Clarke then would speak on the actuarial position of the accounts.

The JOINT CHAIRMAN (*Mr. Richard*): I suggest to the Committee that we proceed with these gentlemen so we will have a full picture.

Mr. KNOWLES: This is not a question of substance; may I just ask whether copies of that report which was tabled in the House yesterday are available to us?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: Could we have them?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. The next witness is Mr. Caron.

Mr. WALKER: Are you ready, Mr. Caron?

The JOINT CHAIRMAN (*Mr. Richard*): Wait until the reports have been distributed.

Mr. C. E. Caron (Assistant Director, Superannuation Branch, Comptroller of the Treasury): Mr. Chairman, honourable senators, members of the House of Commons, I thought that if this was the wish of the Committee, before speaking on the annual report it might be useful to recapitulate briefly the benefit provisions of the Public Service Superannuation Act and the basis on which these benefits are determined, and then we could just very rapidly go through the highlights of this report which was tabled yesterday. If this is the Committee's wish, I will proceed accordingly.

The JOINT CHAIRMAN (*Mr. Richard*): Proceed.

Mr. CARON: I would like to say first that basically we have four types of benefits under the Public Service Superannuation Act. The first one is an immediate annuity which, by definition, is payable to the former contributor, immediately upon his becoming entitled to it. The second one is a deferred annuity; that is, an annuity that becomes payable at age 60 or, if you wish, its actuarial equivalent payable as early as age 50. Thirdly, we have what we call a cash termination allowance. I should qualify this statement at this point by saying that the expression is now used in lieu of the old expression "cash gratuity" which was used before and, as far as the annual report is concerned, we should perhaps be talking in terms of cash gratuities if we speak on that question, because the people who have retired in the year ending March 31, 1966, retired prior to the amendments which were approved by Parliament last summer. The fourth type of benefit—if one wants to call it a benefit is simply a return of contributions which represent the refund of all moneys paid by a contributor into the superannuation account.

Generally speaking, an immediate annuity may be paid to an employee who ceases to be employed in the public service having reached 60 years of age or by reason of having become disabled. The deferred annuity may be paid to an employee who ceases to be employed in the public service for any reason other than disability or misconduct and who has to his credit, five or more years of pensionable service. The gratuity may be paid at the option of a disabled contributor in lieu of an immediate annuity. Finally, a return of contributions is automatically paid to one who has to his credit less than five years of pensionable service or, under certain circumstances, to one who has five or more years of service. There are, of course, benefits too for widows and children, but I will not go into them at this time.

Subject to the adjustments which now have to be made as a result of the amendments to the plan occasioned, as you know, by its integration with the Canada Pension Plan or the Quebec Pension Plan annuities, both immediate and deferred, are calculated on the basis of two per cent of the contributor's average salary during his best six consecutive years multiplied by his years of pensionable service up to a maximum of 35 years.

The concept of the public service superannuation plan as it now stands, therefore, is one where the pension is earned by the public servant as a direct consequence of his salary level and his years of service with the maximum

pension benefit obtainable by any contributor being 70 per cent of his salary during his six best consecutive years of pensionable service. Accordingly, combinations of the salary and service factors can produce a relatively high or low pension depending upon the weight of these two variables. There are other variables, but I think these are the two key ones. For example, a low salary and very few years of pensionable service obviously will produce a very low pension. Conversely, a very high salary and a long period of service would yield a high pension level. What is important to note, however, is that an extremely low level of either of these two factors—that is, years of service, or salary—will definitely tend to bring down the pension level even though the other factor may be high.

As an example, a man who had an average salary of, say, \$6,000 at retirement would, if he had six years of pensionable service, be entitled to a pension equal to 12 per cent of \$6,000, or \$720 per year. On the other hand, approximately the same pension level could be obtained if a man had 35 years of pensionable service and, let us say for the purpose of this example, never earned more than \$1,000 a year as his best six-year average salary.

Now, if I may, after this introduction, move into an examination of the annual report, I will assume that the Committee is primarily interested this morning in the pension situation of retired public servants, and I will, therefore, concentrate my attention on that side of the picture in the annual report which discusses this subject. I propose, therefore, to skip over the references to the retirement fund supplementary death benefits to which we may come back later if members of the Committee are interested and, after a quick reference to the financial position in TABLE 1, I would suggest that we spend most of our time on those tables that give us some insight into the benefit picture, and I will mainly be referring to TABLES 2, 3, 4, 7 and 8.

Now before moving into the examination of these tables, it might be useful to quote from the annual report in order to have the general picture on the membership and on the annuities. If you refer to page 1, you will note that:

In the course of the year, 26,583 employees became contributors while 18,452 employees ceased to contribute resulting in an increase of 8,131 contributors. As at March 31, 1966, there were 185,045 active contributors under the Public Service Superannuation Act.

During 1965-66 3,279 immediate annuities, 106 deferred annuities, and 21 actuarial equivalent allowances became payable. Also, 1,446 widows' allowances and 608 children's allowances became payable. As at March 31, 1966, there were 49,440 persons receiving pension benefits payable out of the Superannuation Account. These include 30,923 former employees, 15,252 widows and 3,265 children.

Mr. LEWIS: Earlier you mentioned the fact the some employees ceased to contribute. I imagine that includes those who were retired and some who had 35 years of service and were continuing in employment.

Mr. CARON: Yes, we will go into the details of those who have retired when we go to the tables.

Mr. LEWIS: All right.

Mr. CARON: There are, of course, people who simply cease to continue to contribute and they are included in the global figure of employees who cease to contribute to the fund.

The average annuity which became payable to employees was \$1,949. Widows, on the other hand, received an average allowance of \$855 and children \$156. These annuities would be much higher if the employees concerned had all completed thirty-five or more years of service, as can be seen from the following table:

You will note in the table on page 1 that there is a tendency for the average immediate annuity to go down in value as the years of service equally go down themselves, so that many who retire after comparatively short periods of service receive annuities which are much smaller than would otherwise be the case.

Now, if you wish I would like briefly to go over tables that I mentioned earlier, TABLES 1, 2, 3, 4, 7 and 8, and just highlight the main features.

If you refer to TABLE 1, I will just mention here, or highlight if you wish, the fact that the employee contributions during the fiscal year 1965-1966 amounted to \$66.7 million. This represents almost a doubling of the contributions that were being received in 1956-57.

Mr. WALKER: Excuse me; what table are you working on?

Mr. CARON: Table 1.

Mr. BELL (*Carleton*): I wonder whether or not the proceedings will be intelligible to readers today and whether these tables that are being referred to ought not to be an appendix to the proceedings?

The JOINT CHAIRMAN (*Mr. Richard*): I was going to suggest that the whole report as tabled should be an appendix to our proceedings today. Is that agreed?

Some Hon. MEMBERS: Agreed.

Mr. CARON: Now, if we quickly refer to Part 2 of TABLE 1 just to compare the employee contributions—that is, the income picture with the expenditure picture you will note in the first column of Part 2 of TABLE 1 which is entitled, "Expenditures and Balance to the Credit of Account", that the annuities in pay in the fiscal year 1965-66 amounted to \$57.7 million and if you compare this with 1956-57, you will see that this amount has really more than doubled. Do you follow me? . . .

If you wish, I will, now move on to TABLE 2. From TABLE 2 in column one, you will note that the total pension payroll, or total beneficiaries, as at March 31, 1966, was 49,440. This again represents a very substantial increase over the total pension payroll in the year 1956-57, which was at that time only 21,880. If you will now refer to the next column. . .

Senator MACKENZIE: Which table are you on?

Mr. CARON: TABLE 2. I suggest you might be careful not to confuse TABLE 2 with Part 2 of TABLE 1. Now, we will move on to the next column, on the annuities becoming payable to contributors. You will note that the total number of males—the male pensioners—in 1965-66 was 2,580. This represented over the last ten years an increase of 44 per cent in the total number of male pensioners. On the other hand, if you look at the total number of female pensioners to whom,

of course, annuities became payable, you will find that the figure increased from 259 in 1956-57 to 826 in 1965-66; so that, on the basis of these figures the female pensioners population has more than tripled in the last ten years also, for every female pensioner that you have today, you have about three male pensioners. Now, the annual value...

Mr. LEWIS: Mr. Caron, I think I understand; your first column is a cumulative one. Is that right?

Mr. CARON: No, it is not a cumulative one; it is just the total number of employees as of a given date.

Mr. LEWIS: But your next column is only for the particular year, the additions in that year.

Mr. CARON: No, it is the total number of people who became entitled to a benefit in that year.

Mr. LEWIS: Under males, where are the new ones?

Mr. CARON: Oh, you mean the first one is a cumulative one; is that what you were saying?

Mr. LEWIS: Yes, I am saying that if you take 21,880 for 56-57 that was the total number accumulated over the years on the beneficiary payroll that year, and your next column is the total number of people who became entitled to benefits in the one year.

Mr. CARON: This is correct.

Mr. WALKER: Excuse me, now you have confused me. In that first column, are these figures not in the same category? Very simply, is the 21,880 not the total number of people as of that particular date, and the 24,000 is the total number of people as of that date, reflecting an increase of the difference between the two figures?

Mr. CARON: That is correct. Now, if we move to the annual value of the pensions, you will note here that the average pension, as I mentioned earlier, in 1965-1966, is \$1,949. This represents an increase in pension value, on an average basis again, of 86 per cent over that which was being paid in 1956-57, which was \$1,510.

Mr. KNOWLES: But this includes in it the higher pensions that are being paid in later years.

Mr. CARON: This is the average pension paid to the people to whom annuities became payable in that particular year.

Mr. KNOWLES: Oh, I get it.

Mr. CHATTERTON: Would that be mainly attributable to increases in pay?

Mr. CARON: It could be attributable to many factors; it could be increases in pay, it could also be in years of service. It depends on the two variables I mentioned earlier. If we have in the year 1965-66 a larger number of employees retiring with, say, an average number of years of service which is greater than it was in the previous years, obviously this would tend to increase the average pension. Similarly, of course, if salaries have tended to increase, this would also

tend to increase the pension value. I would say also—Mr. Clark is drawing to my attention a significant fact, too—that in 1960, as he mentioned in his statement the 6-year average came into effect. Prior to 1960, the average was a ten-year average. The other factor that we might mention also is that as of 1960 the \$15,000 ceiling was removed for calculation of pension, which again would tend to increase the pension value of those retiring today.

Mr. WALKER: What did you say the percentage increase was between 1956 and 1965 for the average pension?

Mr. CARON: I said 86 per cent. I am just comparing—

Mr. WALKER: It cannot be 86 per cent.

Mr. CARON: Well, 1,949 less 1,510 will give you \$439.

Mr. WALKER: Yes, \$439. It is about 30 per cent.

Mr. CARON: Maybe I made a mistake.

Senator BOURGET: If you calculate 30 per cent of \$1,500, that will give you about \$450—

Mr. CARON: Yes, you are right.

Senator BOURGET: —and if you add it, that will make it about \$1,950.

Mr. CARON: If I now refer to the allowance becoming payable to dependents—widows and children—you will note that these pensions have equally increased by almost 50 per cent over the last 10 years. The widows population moved from 771 in 1956-57 to the level of 1,446, in the last fiscal year and the children from \$312 per annum to \$608. Now, I think that is all I am going to say TABLE 2. I will move on to TABLE 3.

Mr. HYMMEN: Mr. Chairman, on the last statement I think there was some confusion. So that the record is straight, that is 312 children and not \$312 per annum.

Mr. CARON: Did I say dollars?

Mr. HYMMEN: Yes.

Mr. CARON: Well, I meant to talk about an increase in the population. I am sorry. Can we move on to TABLE 3 now? TABLE 3 gives you comparative statistics which we refer to as benefits other than immediate annuities to which contributors became entitled. The only point I would like to make here is that if you were to sum up the totals of the population of retired public servants—those who were retired in the last fiscal year—you would have the following picture: of the employees who became entitled to a benefit other than a lump sum benefit during the last fiscal year, 78 per cent became entitled to an immediate annuity because of age.

Mr. KNOWLES: Mr. Chairman, it is difficult to concentrate when there is a speech I want to hear at this end and a conversation down at that end. If those two are not interested, may I call it to your attention?

The JOINT CHAIRMAN (*Mr. Richard*): Order. I would ask the indulgence of the Committee, but at the same time I would ask for the co-operation of others to give us a chance to hear the witness, because it is a very difficult room

in which to listen to a witness without any other hearing facilities, and any disturbances are bound also to disturb those who are listening.

Mr. CARON: If I may start again, just to give you an idea of the distribution of the population, I was saying that 78.3 per cent of those who retired in the last fiscal year with a benefit other than a lump sum benefit with an immediate annuity on account of age; 9.1 per cent retired with an immediate annuity but on account of disability, and 12 per cent retired with deferred annuities, and, finally, a very small number—.6 per cent—retired with actuarial equivalents. This just gives you a broad picture of the types of continuing benefits that we have had in the last fiscal year.

Now, in TABLE 4, all I would like to point out, perhaps, would be the average benefit in the last column of that table. You will recall that we mentioned earlier that the average annuity payable was \$1,949. Now, if you look at the various types of benefits, you will note that the annuities payable on account of age are slightly higher; they are \$2,002. This is the last column on the right. The average immediate annuity on account of disability tends, of course, to be lower; it is \$1,734. If I refer now to deferred annuities becoming payable, you will find that the average is \$1,408 and the average of those becoming payable due to disability is \$550. Now, the other point that I might stress in this table is in column 3, Total Number. I might point out here that we have about 80 per cent of employees who ceased to be contributors and who left the service with a return of contributions.

An hon. MEMBER: Will you repeat that, please.

Mr. CARON: Well, do you see that figure in the third column, 13,933? This is the lump sum payments—returns of contributions. This represents approximately 75 or 80 per cent of our people who ceased to be employed and who received a return of contributions.

Mr. KNOWLES: Do you mean 75 to 80 per cent of those who ceased to be employed in that year?

Mr. CARON: That is correct.

Mr. KNOWLES: While you are at that point, Mr. Caron, would you indicate the difference between gratuities and return of contributions? I know gratuities is what you called the cash termination allowance. I do not think you gave us detail on that.

Mr. CARON: The gratuity is, in the terms of the old legislation, an amount of money which is paid to the former contributor. It is equal to one month's pay for each year of pensionable service up to 10 years and the amount is calculated on the basis of the salary at the time of termination of employment. So, let us assume, for example, that we have an employee who would have a salary of \$500 a month. Well, then, a gratuity could go up as high as 10 times that—\$5,000.

Mr. KNOWLES: Is this the equivalent of a pension where the amount is really too low to provide a pension?

Mr. CARON: This is normally paid—I am subject to correction, Mr. Clark—as part of an option to those who are retired on account of disability if they anticipate that their pension might otherwise be too low.

Mr. CHATTERTON: Personally, I am not quite clear. Is this gratuity in lieu of return of contributions?

Mr. CARON: Well, it is not necessarily in lieu of; it depends on what type of contributors you are dealing with. The gratuity is really part of an option that is offered to a person who is about to retire on account of disability. That person may choose between certain types of benefits one of which is a gratuity, and it is a lump sum payment.

Mr. KNOWLES: That person has to have been employed for five years?

Mr. CARON: In order to—

Mr. KNOWLES: If it is less than five years, all he gets is a return of contributions.

Mr. WALKER: If he gets a return of contributions, does he get interest on the money?

Mr. CARON: No, they just get their money back—no interest.

Mr. CHATTERTON: Mr. Chairman, does he have any figures to indicate to us the difference between the return of contributions and the actual actuarial present-day value if they had taken a deferred annuity? Do you know what I mean?

Mr. CARON: I am not sure I follow that.

Mr. CHATTERTON: It seems to me that the number of people who are taking the return of contributions would be better off financially if they had taken a deferred pension, because by taking a deferred pension, the government's contribution stays in there, does it not, and the interest? Is there any indication of the difference between the actual return of contributions and what the value would have been—the present day value—if they had taken a deferred annuity to age 60?

Mr. CARON: I am afraid I would have to leave that to the chief actuary to answer.

The JOINT CHAIRMAN (*Mr. Richard*): Members of the Committee will appreciate that we will also have Mr. Clarke who is in charge of the valuation, and I was wondering whether we should have not too many questions, except in clarification?

Mr. KNOWLES: One point in clarification; does this question not arise in the case of persons with less than five years service? You have no option, have you, but to return the contributions if you have less than five years service?

Mr. CLARK: If I might speak, Mr. Chairman, there is a situation under section 10 of the Act where a choice is given to either an immediate annuity or a return of contributions. The retiring employee must decide which he prefers. Certainly, as between the gratuity and the return of contributions, the higher is paid, but he has to make the decision as to whether he wants to take a very small annuity or a lump sum payment if he has less than five years service under the relatively few sets of circumstances where that option is available. Mind you, they are very few; but that option does exist in the circumstances listed in section 10.

Mr. LEWIS: But in most cases the return of contributions goes to the person with less than five years service?

Mr. CLARK: That is right. I would guess over 99 per cent of the cases it would be a return of contributions.

Mr. ORANGE: Of this 13,933 who received return of contributions, what percentage of these would be under five years' service?

Mr. CARON: I am afraid I do not have this figure. I think you are really referring to those people with less than five years; that is, they have no option but to receive nothing but a return, and all others with more than five years would have taken this as part of the option.

Mr. ORANGE: Right.

Mr. CARON: I do not think I have the answer to this one. We have not kept figures, but if I remember correctly from a previous report, in 1962 a guess was ventured earlier, and this figure was of the order of 85 per cent.

Mr. CLARK: At one time we had statistics which showed that 90 per cent who had the option took the return of contributions. Now, this has probably decreased; in other words, a higher percentage is taking a deferred annuity than used to be the case but that is the order of it in any case.

Mr. CHATTERTON: Those that had the option—

Mr. CLARK: Between the return of contributions and a deferred annuity, at the last time we had an accurate figure, 90 per cent took the return of contributions.

Mr. LEWIS: For further clarification on the question of the return of contributions, is there anything in the legislation that provides that interest will not be paid on these returns?

Mr. CLARK: Mr. Chairman, section 8 (1) (e) of the Act defines a return of contributions and it ends up by saying "without interest", so that in answer to Mr. Walker's question, there is a specific bar to the addition of interest on the contributions.

Mr. WALKER: But the fund itself earns interest?

Mr. CLARK: That is right.

Mr. KNOWLES: Do you know, Mr. Caron, with respect to this 13,933, how many took return of contributions because they had no option?

Mr. ÉMARD: Mr. Chairman, on a point of order. You just mentioned before that we were supposed to wait for questions, except for clarification. This is further than clarification. For the last fifteen minutes I have had a lot of questions to ask also. Well, let us make up our minds; do we want to ask questions, or do we want to hear the witnesses first?

Mr. KNOWLES: I think it is a point of clarification you would like to have, Mr. Émard. You ask the questions.

The JOINT CHAIRMAN (*Mr. Richard*): We will be going into this more deeply. I am sure many members would like to ask quite a few questions on each table.

Mr. CARON: I think, as time is running, we will now move on to TABLE 7, with your permission, and then to TABLE 8. TABLE 7, as its title says, refers to contributors retiring on account of age—and that would mean 60 years of age—and becoming entitled to an immediate annuity during the fiscal year April 1, 1965 to March 31, 1966. This table classifies these people according to amount of annuity and years of pensionable service. There are, perhaps, two or three points I would like to highlight in this table. First, I would recall from TABLE 4 that the average pension of the group of people referred to in this table is \$2,002 a year. Now, if you look at the total distribution, by years of pensionable service, you will note that 2,938 employees retired on account of age and became entitled to an immediate annuity. If you make a brief analysis of these proportions, you will find that 457—this is approximately 15 per cent only—did retire with the full number of years of pensionable service; that is, only 15 per cent retiring on account of age did so with a full 70 per cent pension.

If you look at the other extreme of the table, you will find that 502 employees retired after 5 to 9 years of pensionable service, and this represents about 18 per cent of those retiring on account of age with an immediate annuity. If you now look at the levels of the pensions and at the distribution of the population in the last vertical column which starts with the figure 37, you will find that—if you were to work out the cumulative total—approximately 33 per cent of these people did retire with an annuity of \$2,161 and higher and, I would add that about 25 per cent retired with an annuity of \$720 and less.

Now, if you were to make a detailed analysis of this table you would find that the distribution of the population, follows a curve which indicates a reasonably high positive correlation between years of service and amounts of annuities. That is, if years of service go up, the annuities will tend to go up and the reverse is equally true. You will note that if 50 per cent of our pensioners here do receive a pension which is less than, say, \$1,500 per year, one third of those who have retired in that group retired with only 5 to 9 years of service and approximately one half retired with 10 to 14 years of service. This tends to explain again that the low number of years of service would tend to generate relatively low pension levels. That is all I have to say on TABLE 7 and I would like now to—

Mr. KNOWLES: May I ask a question in clarification with regard to the breakdown between males and females? I gather from the total of 2,280 that all the figures above that line are male. You just have not given us the breakdown of females among levels of pension?

Mr. CARON: Mr. Knowles, the breakdown above these lines includes both males and females. If you were to take the cumulative total starting at 37, you would find that this would probably add up to 2,938.

Mr. KNOWLES: Oh.

Mr. CARON: If I may move on to the last table for the purpose of this trip through the annual report, this table refers to the same population that we have just been really looking at in TABLE 7 except that it is a distribution according to age at retirement. I would like to show here that, if you take the population by age at retirement from 66 years of age and up—that is, starting with the column headed 66, where the total is 450 and taking a cumulative total up to the 73 years

of age and over—you will find that this comprises approximately 35 per cent of those people who, in the last fiscal year, retired on account of age and became entitled to an immediate annuity.

Then if you look at the column 65 years of age, where you have a total of 1,070, you will find that this represents approximately 36 per cent of those who have retired in that group retired with only 5 to 9 years of service and approximately the sum total of all those retiring at 65 and over 65, you find that this represents roughly 70 to 71 per cent of all the contributors who retired in the last fiscal year on account of age and became entitled to an immediate annuity. The balance of those retiring prior to age 65, that is from 60 to 64, makes up about 29 to 30 per cent of the population.

Mr. WALKER: Well, did the 60 to 64 retire on account of age?

Mr. CARON: Yes, because you can retire on account of age at 60 years of age.

An hon. MEMBER: When you are sick.

Mr. WALKER: No, not sickness—age. Can they retire voluntarily?

Mr. CARON: Yes, that is right.

An hon. MEMBER: So long as they have enough years in.

The JOINT CHAIRMAN (*Mr. Richard*): It is not age; it is on account of enough years service.

Mr. CARON: If it is age, of course you have to have five years of pensionable service. If you join the service at 59, you will not be able to retire with a pension at 60; you will have to wait until you are 64, that is, until you have accumulated 5 years of pensionable service in order to draw a pension.

This, Mr. Chairman, brings me to the end. I think if members have any questions I could go on further, but I find that time is running.

The JOINT CHAIRMAN (*Mr. Richard*): I think we decided earlier that we would also proceed with the other member of our witness group, Mr. E. E. Clarke, the actuary.

Mr. E. E. Clarke (**Chief Actuary, Department of Insurance**): Mr. Chairman, honourable senators and members of the House of Commons, actuarial concepts of any kind are seldom easy to understand and I think that the actuarial aspects of pension planning and pension plans are the most difficult of all. I was very forcibly reminded of this...

Mr. LEWIS: I am intimidated.

The JOINT CHAIRMAN (*Mr. Richard*): One moment; are copies of these statements of yours available?

Mr. CLARKE: Those are copies of our last actuarial report on the examination of the account. This is not the statement I am going to make.

The JOINT CHAIRMAN (*Mr. Richard*): But is this statement here available to the members?

Mr. CLARKE: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Should we distribute it then?

Mr. CLARKE: I will not be dealing with that report directly in these remarks, Mr. Chairman. The copies can be distributed afterwards if you like.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Mr. KNOWLES: He will confuse us enough without adding that.

Mr. CLARKE: I was going to say that I was very forcibly reminded of the fact that pension plan actuarial aspects are most difficult by Charles Lynch in his column after the actuarial report on the Canada Pension Plan was released. He said that the report was probably the most indecipherable document that had ever been placed before Parliament in all its history. Now, this set me back quite a bit because I had spent a great deal of time trying to put it into language—the main part of the actuarial report—that could be understood and read by anybody.

Mr. KNOWLES: Do not feel badly; we all have trouble with Charles Lynch.

Mr. CLARKE: In any event, I have tried to do the same thing again. I will try to make these remarks in language that is understandable, but I do not know how much success I will have.

Now, the actuarial aspects which I have tried to cover are those that deal with statements and contentions that have been made from time to time in the press, in letters to the editor, in letters to the members of Parliament and in staff association periodicals. I thought, however, that I should first say a few words about the actuarial examinations of the superannuation account. Section 33 of the Public Service Superannuation Act requires that the Minister of Finance shall lay before Parliament at least once in every five years an actuarial report on the state of the superannuation account. These reports are prepared by the chief actuary ex officio of the Department of Insurance on the basis of actuarial examinations of the account made by the actuarial staff of the insurance department. The latest report, which was tabled in Parliament on November 10, 1964, was based on an examination of the state of the account as at December 31, 1962. The next report will be based on an examination of the account as at the end of 1967—this year.

In general, the actuarial report contains the following information: A description of benefits and contributions under the superannuation plan as at the valuation date and a description of the more important changes that have been effected in the plan during the preceding five years; detailed statistical data in respect of the current membership of the plan and changes that have taken place in membership during the preceding five years; description of the actuarial assumptions used in determining the values of future benefits and contributions; estimates of average contribution rates required in respect of new members to provide future benefits for themselves and their dependants; balance sheets showing assets and liabilities in detail; an analysis of any deficit or surplus that appears in the balance sheet; and a summary of the main items determined or estimated during the examination that bear on the state of the account.

Copies of the 1962 report are available here if any of the members should wish to have them.

The next general aspect that I have covered in my remarks is an attempt at explanation of the balance of the superannuation account; the assets, liabilities and what is meant by required contribution rates. The balance of the account

at any point in time may be considered as an asset of the plan at that time. As Mr. Clark mentioned when he was speaking, at March 31, 1966, the balance of the account was \$2,390 million.

While this may seem to be just a paper figure, as has been suggested on numerous occasions, it does represent a real asset backed by all the taxation and borrowing powers of the federal government. In effect, the plan holds long-term federal government securities yielding four per cent interest, equal in amount to the balance of the account. The fact that there are no pieces of paper held in a vault in no way affects the security of the asset. The other main asset of the plan consists of the value of contributions to be received in the future from current members, together with matching employer credits. The sole liability of the plan consists of the value of all future benefits payable, or that will become payable, in respect of current contributors and pensioners and their dependants in accordance with the terms of the plan.

Now, what is a deficit? If the benefit liability exceeds the balance in the account plus the value of future contributions, the account is in a deficit position. The contribution rate required in respect of new members is that percentage of salary that will, on the average, provide all future benefits for those members and their dependants. Estimates of the required contribution rate for new members depend to a very considerable extent on how salaries are assumed to increase in the future.

Mr. LEWIS: Excuse me, Mr. Chairman, when you say contribution rate, does that include the employer's contribution?

Mr. CLARKE: Yes, I mean both.

Mr. LEWIS: The composite contribution.

Mr. CLARKE: Yes, the total required contribution rate. It has been noted in the 1962 actuarial report that if no account is taken of increases in salary, other than ordinary promotional increases—that is, if no account is taken of general salary or cyclical salary increases—it is estimated that member contributions equal to $6\frac{1}{2}$ per cent of salary for male members together with matching $6\frac{1}{2}$ per cent credits from the employer are sufficient to provide for future benefits. That is, if we had no general salary increases at all or, as we have now, cyclical salary increases, the contributions presently being paid by male members and the matching employer contributions should be sufficient to pay for benefits.

However, the fact cannot be ignored that there have been and continue to be substantial general or cyclical salary increases. Over the decade ended in 1957, salary increases averaged about 5 per cent yearly and, since that time, such increases have, according to our estimates, averaged roughly 4 per cent yearly. When such increases in salary are taken into account, a total contribution rate of 13 per cent is far short of that required to provide benefits.

For example, for the 1962 report estimates were made of the average contribution rate that would be required in respect of new members if salaries were to increase in the future at 3 per cent yearly. The estimates indicated that under such an increase pattern—that is, increases at 3 per cent yearly—contributions at the rate of 18 per cent of salary for male members and 16 per cent of salary for female members would be required to provide for future benefits. Since the employer—that is, the government—bears total responsibility for the

additional liabilities that are created by salary increases, it is clear that the employer's benefit obligations resulting from salary increases alone are equivalent in value to continuing contributions of some 5 per cent to 10 per cent of salary. This is in addition to the employer's ordinary matching contributions.

Now we come to a subject that is very much in the news at the moment, and I am sure you will hear about it next week during your meetings—this subject that relates to a change in the interest rate used for purposes of the superannuation account. In determining the present value of future income or future expenditures for any business, the higher the rate of interest that is assumed to apply over future years, the lower is the present value. Thus, if the present values of future benefits and future contributions under the superannuation plan were calculated on the basis of an interest rate higher than 4 per cent per annum, those values would be less than values calculated on the basis of 4 per cent, the rate that has been used for this purpose over the years and which is still in use.

Since the value of future benefits is much greater than the value of future contributions, it would follow that the net liability that is, the difference between the two, which is ordinarily closely represented by the balance of the account, would be reduced by an increase in the valuation rate of interest. This is the point which I am sure will be made to you from time to time.

Mr. KNOWLES: Will you try that again so that Charles Lynch and I can understand it?

Mr. CLARKE: Just you, Mr. Knowles.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure there are other members who would also want an explanation besides Mr. Lynch.

An hon. MEMBER: No doubt.

The JOINT CHAIRMAN (*Mr. Richard*): We are going to have an awful lot of problems if we take this to heart, if I may say so.

Mr. WALKER: I had to spend an awful lot of time with slow learners.

Mr. KNOWLES: I would ask you to explain again how a higher rate of interest produces a lower value, or have I said the wrong thing?

Mr. CLARKE: This is true. Let us suppose you were to take out a mortgage, Mr. Knowles, for \$10,000 and the rate of interest were 8 per cent, then the payments you have to make would be considerably higher than if you had a mortgage at 5 per cent.

Suppose you were paying the same payment of \$100 a year under two mortgages; in discounting the payments back to the present time to determine the present value, payments of \$100 discounted at 8 per cent interest would result in a very much lower value than would be the case for the payments discounted back at 5 per cent. How can I explain this?

Mr. LEWIS: A larger proportion of your \$100 is interest rather than capital.

Mr. CLARKE: True, so that the value at the present time of each future payment discounted at 8 per cent interest is very much lower than if it were discounted at 5 per cent interest. Do you see?

Mr. CHATTERTON: Lower to the person who is paying the mortgage; to the person who is holding the mortgage the value is higher.

Mr. CLARKE: For instance, if the mortgage of one person were \$10,000 and he was paying 8 per cent interest and on another mortgage of \$8,000 he was paying 5 per cent interest—no this does not work out.

Senator CAMERON: Is it not just like discounting a note at the bank?

Mr. CLARKE: Oh, it is exactly that; but I am trying to explain the financial effect of such transaction. If you discount a note at the bank, the higher the rate of interest, the lower the amount of money you are going to get.

Senator CAMERON: So if it is 8 per cent, you get \$92, that is all it is worth; if it is 5 per cent, you get \$95.

Mr. KNOWLES: It seems to me there is a difference between my position if it is my house and I have the mortgage, and the position of the company that lent me the money. From the standpoint of the company, it is going to get more money because I pay 8 per cent than if I were paying 5 per cent. It will take longer to get it. I suppose what you are saying to me is that if I wanted to sell my house with the 8 per cent mortgage, the value that I have in it is less?

Mr. CLARKE: The payments that you are making at 8 per cent on the \$10,000 amounts to far more than if you were paying at 5 per cent. So, the value of these payments to the insurance company are much greater on the 8 per cent basis than on the 5 per cent basis, you see. Thinking of these payments, not of the initial amount of money, the value of all the payments is much greater to the insurance company and much less to you at an 8 per cent rate than at a 5 per cent rate.

Mr. KNOWLES: That is what I was thinking a moment ago, but now translate that into the case of the pension fund. Who is the insurance company and who is the home owner?

Mr. CLARKE: If we think of all the future pension obligations which go on throughout the years and suppose that ten years from now there is \$10,000 paid out in pensions, then the value of that \$10,000 at a 5 per cent rate of interest is lower than at a 4 per cent rate of interest. If we discount that payment 10 years hence at 5 per cent interest, the value now is lower than when discounted at 4 per cent. The value might be, let us say, \$4,000 under a 5 per cent rate of interest and \$5,000 under a 4 per cent rate of interest. It is higher under the 4 per cent rate of interest.

Mr. CHATTERTON: Higher to the government but lower to the—

Mr. CLARKE: The value is lower now because more interest is paid later.

Mr. LEWIS: You mean that 6 per cent on \$5,000 after a certain number of years may equal—it does not matter whether it is mathematically right or not—as much as 5 per cent now on \$7,000?

Mr. CLARKE: This is true. Thinking of the present value of \$4,000 now, if you should get 6 per cent on it from the government, instead of 4 per cent, then the amounts of money that have to go in year by year are greater. The higher the rate of interest, the more money has to be paid out on any amount that is applicable at the moment, so that if we were to value all benefits at a 5 per cent

rate of interest, the present value of those benefits would be lower than if they were valued at a 4 per cent rate.

Mr. LEWIS: Mr. Chairman, am I right in saying that you are now talking as the mortgagee of the fund, namely, the government that has to pay the interest, and you are saying that for the mortgagee, namely the government, the higher the rate of interest the lower the value now, because they have to pay more into it to reach the same result?

Mr. CLARKE: You should have been the actuary.

Mr. LEWIS: I always thought the government was the mortgagee.

Mr. KNOWLES: But let us look at it now as in the case of the beneficiaries of the fund. Maybe it is of less value to the government, but will there not be more money in the fund available for the paying of pensions if the government has had to pay 5 per cent instead of 4 per cent?

Senator MACKENZIE: You earn interest on the contributions. If you earned 7 per cent instead of 5 per cent, you would have more in the till.

Mr. CLARKE: This is true only about the employee contributions that are coming in; if the rate of interest applicable is 7 per cent instead of 5 per cent, then there would be more money eventually in the fund; right.

Mr. McCLEAVE: Do you think we should get up a column for Charles Lynch?

Mr. CHATTERTON: Ask the Creditistes. They probably—

Mr. CLARKE: Interest is credited by the government on the total amount in the account.

Senator MACKENZIE: I think if you do not establish a fund on which you earn a current rate of interest, that is, the government contribution and the annuities contribution; if you did and the market interest rate was 7 per cent and you were only paying out 5 per cent you would be making a lot of money.

Mr. KNOWLES: This government is saving money because it has to pay only 4 per cent on this money compared with the higher rate that it has to pay on money that it borrows in the market.

Mr. CLARKE: This is true, but it also paid 4 per cent when the rate that it had to pay for money borrowed elsewhere was 2 or 3 per cent.

Mr. LEWIS: You are still talking like a mortgagee.

Mr. CLARKE: I think I have probably covered that point in these remarks, Mr. Knowles.

Mr. KNOWLES: Did you say you have or will?

Mr. CLARKE: I think I will.

Mr. KNOWLES: You anticipate the questions that are coming next week and they will probably still come.

Mr. CLARKE: Exactly; that is true.

For the past several years, money has earned interest at relatively high rates—we are talking about the money market now. For example, long-term federal government bonds are selling to yield some $5\frac{1}{2}$ per cent per annum. As a result of the current high rates of interest, it is suggested in some areas that a

rate higher than 4 per cent should be used in determining the net liability of the superannuation account and in estimating the contribution rates required to pay for future benefits in respect of new members, and that any consequent reductions in the net liability or in the required contribution rates could be used for the benefit of the plan members.

For example, if use of a 5 per cent per annum rate were to reduce the present liability of some \$2 billion by some \$200 million and reduce the effective required contributions rate for new members by 10 per cent—by that I mean that if the required contribution rate is now 20 per cent it would be reduced to 18 per cent—such reductions could be passed on in the form of benefits to members. This is the contention that will be made. For instance, if we were to value the benefits that are now obligations of the superannuation fund at the rate of 5 per cent interest instead of 4 per cent, then it might be that we need only \$2 billion in the account instead of \$2.4 billion, or something like that.

There seem to be two main fallacies in the proposals that the rate used for purposes of the superannuation account should be increased above four per cent and any resulting reduction in the net liability and required contribution rate could be used for the benefit of plan members. In the first place, it would appear to me, at least, that a valuation rate higher than 4 per cent per annum would be neither warranted nor wise. In this regard it is often not realised that the rate of interest used in calculating values of benefits and contributions under any pension plan must apply over very long periods of time. For instance, in respect of a contributor now aged 30, the rate used must be applicable for a period of some 40 or 45 years.

It is perhaps inevitable that in extended periods of high or low interest rates, there is a human tendency to forget or ignore the fact that such rates are subject to cyclical trends. In the late 1940's and early 1950's, after many years of low and continually decreasing rates, it appeared to many people that high rates would never again prevail, but they did. I can remember, back around 1950, having dinner with a couple of very prominent actuaries who are still with the Department—and one of them could not be more prominent in the Department—and they were seriously discussing whether or not rates would go down to the point where a zero rate of interest would be applicable for the valuation of insurance contracts and annuity contracts. This was only about 15 years ago. At the present time, after many years of high rates, it is not easy to remember that such rates will not continue throughout the future, but they will not. I am speaking from historical experience.

Historically, since the beginning of this century, yields on long term government bonds have averaged about 4 per cent and have fluctuated above and below that rate on a number of occasions. Thus, just as there was considered to be no good reason, when current interest yields were running at 2 per cent to 3 per cent per annum, to reduce the interest rate for superannuation purposes below 4 per cent per annum, there would seem to be no reason to believe that interest rates will remain at the current high level and to increase currently the rate used for superannuation purposes above 4 per cent per annum.

It may be relevant to note here that for the valuation of privately-funded pension plans, the usual rate of interest now being used by consulting actuaries is in the range of 4 per cent to 4½ per cent per annum, although the assets of the funds are presently yielding an average rate considerably higher than that. Now

in the second place, even if an interest rate higher than 4 per cent per annum were currently considered appropriate for superannuation purposes, it is difficult to see that any resulting reduction in the net liability or in the required contribution rate for new members could be considered applicable for the benefit of the plan members.

Even if the estimated benefit liability should be reduced by introduction of a higher interest rate for calculation purposes by, say, \$200 million, the employer would surely consider this as a partial offset to the many hundreds of millions of dollars worth of additional benefit obligations created by salary increases over the last couple of decades that have been assumed in whole by the employer. Again, even if the estimated total required contribution rate for new members should be reduced by some 10 per cent as a result of the use of a higher interest rate in its calculations, it is unlikely that the employer would consider that the employee contribution rate should be reduced below the current level in view of the additional benefit liabilities assumed by the employer as a result of salary increases.

It may be of interest that at the present time an average 10 per cent salary increase for plan members would create additional net benefit obligations for the employer of a value of some \$150 million. That is, if today there were a 10 per cent increase, then besides the increase in salaries themselves, there would be additional obligations assumed by the employer worth about \$150 million.

Now, in the last part of these remarks, I have taken some statements or contentions that have actually been made from time to time and tried to provide some answer to them. One contention is that in view of the current large balance in the superannuation account, and the fact that current annual employee contributions and government credits to the account exceed payments out of the account, surpluses are emerging sufficient to provide for increases in pensions to superannuated persons.

My comments are that the superannuation account is operated in accordance with principles of funding generally accepted for employer-employee pension plans and with those implicit in the pension benefits legislation now in effect in three provinces, and implicit in the bill that was given first reading in the House of Commons here—the Pension Benefits Standards bill.

Under usual pension arrangements, pension benefits are regarded as deferred compensation, and contribution rates are set and contributions are collected at the levels estimated to be required to accumulate enough funds during the active life-time of contributors to provide for specified retirement pensions and subsidiary benefits in respect of those contributors. If the number of employees in the public service were stationary, and the superannuation plan were in a mature state, annual employee contributions and government credits, including interest credits, should theoretically just equal benefit payments. With increasing membership in the plan, current contributions and credits to the account must necessarily exceed current benefit payments and the account must continue to increase.

This growth in the account simply reflects the growing liabilities in respect of active contributors and pensioners. It does not indicate emerging surplus. In simple terms, the balance in the superannuation account at any time represents

the equity of current active contributors and pensioners in respect of benefits accrued and accruing to them. There is no known margin for provision of additional benefits.

Now, another contention that has been made is that the excess of employee contributions and government credits over benefit payments has been used and is being used for current revenue purposes by the government of the day. The contention is, of course, valid. Since the superannuation account is simply an account in the consolidated revenue fund, the current excesses or receipts or disbursements are available to the government for the financing of government projects or costs of administration. There is, however, nothing sinister or suspect in this situation. For any employer-employee pension plan, current excesses of receipts or disbursements which are not needed for immediate payment of pensions are available for the financing requirements of governments, government guaranteed enterprises, and private corporations through ordinary investment processes, that is, the purchase of bonds or stocks of businesses or governments.

Of course, such funds are ordinarily invested in marketable securities of enterprises other than the employer's own business since it would be unwise to have the pension security of employees rest solely on the survival of a single private employer's enterprise. However, in the case of the public service, there is little reason to doubt the survival of the employer and if that employer does not survive, pensions will not matter at all.

Mr. WALKER: Are you talking about the present employer?

Mr. KNOWLES: He is talking about the Establishment.

Mr. CLARKE: Also, clearly, there can be no safer investment than one supported by an obligation of the government of Canada. The balance in the superannuation account may be considered such an investment backed by the obligation of the government to pay benefits to public service contributors and their dependants in accordance with the provision of the Public Service Superannuation Act. The balance in the superannuation account is simply a measure of the size of the government's obligation. Now, in my comments here I ask a question (In respect of the other contentions, I had several questions and several answers, but time is going.) But, the question here is—just turning this contention into a question—does the fact that the amount of money represented by the balance in the account is not in the hands of a chartered bank, or an equivalent amount of gold not buried under the Parliament buildings, jeopardize future benefit payments under the superannuation plan?

Obviously the answer is, no. Benefits under the Public Service Superannuation Act are guaranteed as a right by government legislation. Thus, as long as parliament has the power of taxation and recourse to borrowing, the benefits provided for in the legislation will be paid. Theoretically, a future Parliament could reduce or cancel all benefits by amendments to the Public Service Superannuation Act. However, at least theoretically, Parliament could also void benefit payments under any pension plan in the country by direct legislation. Such action simply is not conceivable.

Now, another contention that has been made—it may not be made next week—concerns the fact that there are deficits in the account from time to time,

and these are the result of the employer not matching employees' contributions. From time to time in the past there were cases where liabilities were shown either by actuarial examinations or as a result of salary increases that were not immediately credited to the account. But by amendments in 1965, it is specified that any additional liabilities arising as the result of salary increases, will be liquidated by five equal annual instalments commencing in the year of the salary increase. So this contention does not hold. It never did hold as far as matching contributions were concerned and it does not hold in any way at all now. That is all I have to say, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): I do not know whether you wish to proceed by witnesses or to examine one of the particular aspects of the presentation. We have about half an hour more to go, so members might decide whether they want to start with the first Mr. Clark.

Senator MACKENZIE: Could I ask one basic question, Mr. Chairman? Is this reference up to those who have already retired and are receiving pensions, or is it an examination of the total pensions?

The JOINT CHAIRMAN (*Mr. Richard*): No, it is a reference to those who have already retired.

Senator MACKENZIE: And who may not be receiving sufficient?

The JOINT CHAIRMAN (*Mr. Richard*): In our opinion.

Senator MACKENZIE: I could ask questions for weeks with advantage to myself—not to others—but I feel it is our concern to examine whether or not the pension receipts of retired civil servants are adequate; if they are not, how much more should be added to them, and where that money is going to come from. Is this more or less our problem?

Mr. LEWIS: I would imagine the present Mr. Clarke is telling this Committee that as far as he, as an actuary, is concerned the alleged surplus in the present pension fund is merely adequate to meet the pension fund's liabilities, and no additional payments can come out of it. That is really the substance of the actuary's presentation.

Senator MACKENZIE: As far as I am concerned, as I see it, if more money is made available to those who require it, it will have to come either out of supplementary grants by the government or out of the fund which is increased by additional payments which will go to these people who are not contributing, and will be a contribution by the present contributors and a partial contribution by the government. Is that right?

The JOINT CHAIRMAN (*Mr. Richard*): I would have thought also that the first presentation and the second presentation were very important because it showed how many people were superannuated, what was their situation, and that is the main problem of this Committee—to establish how many people are affected, how badly they are affected, and then to find out the means to do something about it. I do not want to direct the Committee but I was wondering how many questions at this stage we should ask of these witnesses. I would have thought it might be good to hear those who have a problem, and have these witnesses come back at a later date unless it is for clarification of their briefs at the present time, because I would imagine these gentlemen should be called back at a later date.

Mr. BELL (*Carleton*): Mr. Chairman, may I raise a question in relation to that point? Is Mr. Clark now in a position, or would be in a position at a future meeting, to give us the benefit of his research as to what has been done in relation to increases in the provinces, in other countries, in the United States, in the United Kingdom, and in France principally? I have endeavoured to do a bit of research on this myself. I have put what benefit of such research as I have on the records in the House when this was discussed, but I am sure that Mr. Clark has much greater detail and I think, for purposes of comparison, it would be most useful to the Committee to have a rather elaborate statement of what legislative provision has been made in the provinces and in other countries.

Mr. CLARK: Mr. Chairman, while I have a great deal of that information with me today if, as Mr. Bell says, a somewhat elaborate statement is desired, I would prefer to prepare that for a subsequent meeting.

Mr. BELL (*Carleton*): Could we have that as a memorandum?

Mr. CLARK: Yes, if that is desired.

Mr. WALKER: The other information I would like to have is a comparison between the way this fund of ours is being administered and a private pension fund.

Senator MACKENZIE: This is not our problem at the moment, is it?

Mr. WALKER: I think it is very pertinent. It will take some time, perhaps, to get this information, but I feel it is very pertinent.

Senator MACKENZIE: It will not help those who have retired.

Mr. WALKER: Oh yes; it might well.

Mr. CLARKE: Mr. Walker, I can say now that the administration of the fund is just as if this were a private pension plan.

Mr. LEWIS: That is what I understood Mr. Clarke to say.

Mr. CLARKE: As far as assets are concerned, private pension funds hold pieces of paper from various concerns while we have just figures in an account which, in effect, as I was trying to point out, are government securities. Other than that, the administration is exactly the same as for ordinary private pension plans.

Mr. WALKER: I was thinking of the administration of these types of funds that are handled by large life insurance companies for instance. I wonder if we could get a comparison? Do they set a four per cent as we do or do they go on the market and earn money with their funds. I would like to have this sort of comparison, if there are differences at all, in the administration of the fund.

The JOINT CHAIRMAN (*Mr. Richard*): I think Mr. Walker would appreciate, even if I am not an expert, that there is a great deal of difference between a life insurance arrangement and the one with the government because the return is guaranteed by life insurance companies; they can project their earnings from a fund; they do not give all the benefits that the government would give, but I suppose that is a clarification you would like to have.

Mr. WALKER: Yes, indeed; very much.

Mr. KNOWLES: Mr. Chairman, I agree with you and Senator MacKenzie that our terms of reference and our concern relate to the persons who are now on the pension, but I think it is highly relevant to that that we understand our present set-up and I think what Mr. Ted Clarke has been giving us is particularly relevant to any decision that we may make. In fact he knows, and I think he was wise to say what he did this morning, that the arguments which he is trying to answer will certainly be made next week about the money that is in the fund, the interest that could be paid and all the rest of it.

I say this as one who terribly wants us to do something and to do something generous, as you do Mr. Chairman, but we have to consider what the effect of changes that we may recommend may have on the whole plan. I mean, if we recommend some payments that are outside the scope of the plan, that raises the whole question of what is the future of the plan. I know it is late to proceed now, but I would like to hear from either Mr. H. D. Clark or Mr. E. E. Clarke on the whole question of whether funding versus a pay-as-you-go arrangement is still a good idea.

I know that Mr. H. D. Clark gave us the hundred years history and it finally got to this point, but I began to wonder after I listened to Mr. Ted Clarke—and it is not the first time I have wondered if—whether all of this bookkeeping and funding just does not create an intellectual problem, getting away from the fact that what we are doing is collecting a certain amount from people and providing deferred compensation.

Mr. CLARKE: As far as the superannuation plan for the federal civil service is concerned, this is true. It is, in effect, a pay-as-you-go plan. It is administered as if it were a privately funded pension plan. The figure in the account shows the government obligation. In the future the government is going to have to pay pensions and it is going to collect so much money. Our calculations show what the value of the benefits are, which is what amount of money would be required in the fund for a pension plan of a private employer. For information purposes it is well to have this information, but the fact is that the money must come from the consolidated revenue fund to pay pensions as the need arises.

Mr. KNOWLES: I think you have said it, that for information purposes all these figures are good, but in point of fact we have a pay-as-you-go plan, we have deferred compensation, and what we have to decide in this Committee is whether the deferred compensation that retired people are now getting is adequate, and whether we recommend that there be some increase.

Mr. CLARKE: All I have been trying to point out is that, considering this as a privately funded pension plan, there would be no facility for adding benefits, unless—

Mr. KNOWLES: Under the plan as it is set up.

Mr. CLARK: That is right.

Mr. KNOWLES: If this is done it will be as a deliberate act of the Parliament of Canada.

Mr. CLARKE: That is right just as the last pension adjustments were for the superannuated persons.

Mr. KNOWLES: When we get through all this, I hope that is what we do.

Mr. ÉMARD: I would like to see a comparison of the government superannuation fund and the benefits that are paid between this fund and—excuse me, my English is not as regular as it should be. I should like to see a comparison of the benefits paid by the superannuation fund, the benefits that are paid by private funds in industries and in the larger funds administered by the unions. I know we have already received some briefs from older employees who have retired, and every time they submitted to us a comparison of what they received and what was being received by employees in outside industries. Also, even with Bill C-170, this plan is not going to be a bargaining item. I think that you will receive in the future many requests from the Alliance and the other unions representing the employees to make this fund comparable to the funds that are prevailing in industry today.

Senator CAMERON: Mr. Chairman, I was wondering if Mr. Clark who has all of the information necessary with respect to the current problem—that is, bringing the benefits of the people who have retired up to a reasonable standard—could submit to us two or three theoretical projections of what it might be necessary to do. In other words, it might save us some time if you say, all right, we have X number of civil servants who have retired and there is a deficiency between what they are getting and what they need and we estimate you might do it on two or three bases—that we will need to put into a fund X dollars to make up that deficit. Could he do that? Would it be right to ask him to do that?

Senator MACKENZIE: I was thinking, if I might ask Senator Cameron, do you mean a flat increase or a percentage increase?

Senator CAMERON: I would leave it to him. That is the reason I suggested two or three theoretical propositions.

The JOINT CHAIRMAN (*Mr. Richard*): I think the suggestion has been made at times—I do not want to interfere here—that consideration should be given also to certain levels of pensions that are already being paid; for example, people who only get \$60, \$75 or \$125, maybe a plan that would cover people like that, like the plan of 1958 or 1959 which was for people who received up to \$300. It would have to be, because if it included everybody who received even a \$12,000 a year pension, the contribution would be out of line completely, I suppose, and that is up to the Committee to decide at a later date if they want to increase all pensions of anyone who receives a large amount or a small amount.

Senator MACKENZIE: Could you also include for my benefit, at least and there may be others—what pensioners receive in addition from government sources such as the old age pension, and the Canada pension. Those who are now 70 do not get in on the Canada pension at all; they are limited to the old age pension. Those coming up do get in, so these, due to the fact these are to be paid by the government, out of taxes should be considered in the total retirement benefits.

Mr. WALKER: A supplementary question to Senator Cameron; what does the employer contribute—dollar for dollar?

Mr. CLARK: Mr. Chairman, on the current contributions, the employer does contribute dollar for dollar, but then there are these annual salary increases and so on which give rise to additional contributions which, last year I think, amounted to some \$24 million on this five-year amortization basis, and more will

be paid this year, so that you do get the picture as indicated on TABLE 1 of the report where, as a budgetary charge, the government has put in some \$250 million more dollars than the employees and, in addition to that, there are the so-called deferred charges of some \$590 million that have been put in from time to time and disposed of.

Senator MACKENZIE: These are salary increases projected into the future when he retires.

Mr. CLARK: These are related to salary increases and other causes but the big item is the salary increases that Mr. Ted Clarke mentioned.

Senator MACKENZIE: They must be projected into the future.

Mr. CLARK: Yes, that is right.

Mr. WALKER: The employees' contributions will increase if they take their ten best earning years, also. Is that figure reflected?

Mr. CLARKE: This is the net between the additional benefit liability and the additional value of contributions.

Mr. ÉMARD: I would like to gather more information with regard to these employees with 5 to 20 years service who are getting a pension. I was amazed to find that in the government, after only five years of service, you can get a pension. I do not think this is generally done in the industry, because I think that in most industries the requirement is 20 years of service. If you have not served 20 years of service, you are not entitled to a pension in most places. I would like to see how many employees have 5 years, 6 years, 7 years and so on, right up to 20 years service.

Senator MACKENZIE: I think that practice is changing, Mr. Émard. I think the tendency is to give pension rights—annuity rights—to employees within a very short time when they are, in a sense, on a permanent payroll. This is part of the turnover, and this is important in terms of portable pensions. If you have portable pensions, then you want to begin to provide a pension within the first year of your employment and not wait for 20 years.

Mr. LEWIS: Not provide pension, but provide pension entitlement. You do not get it. You carry your pension entitlement from job to job, and you get your pension when you reach the age.

Senator MACKENZIE: That is so; quite right.

Mr. KNOWLES: I think we had statistics on that when we had the Canada Pension Plan before Committee, did we not, Mr. Chairman? I wonder if they could be reproduced for Mr. Émard? I think the Department of Health and Welfare had them, did they not? The pattern of industrial pensions compared with the pattern of civil service pensions.

Mr. CLARK: Yes, we have quite a bit of information on that Mr. Knowles, and—

Senator MACKENZIE: Just one other general question; I take it that at the present time government pensions are not portable?

Mr. CLARK: On the contrary, they are more portable than most. We are really the pioneers in portability.

Senator MACKENZIE: If a civil servant, after seven years transfers to industry, does he transfer more than his contribution?

Mr. CLARK: The concept of portability means that you can carry with you an entitlement to pension in the plan of your old employer.

Senator MACKENZIE: And you keep that until it becomes payable.

Mr. CLARK: Yes, this is reflected in the number of deferred annuities becoming payable which Mr. Caron mentioned, and we have had this since 1947.

Senator MACKENZIE: And in that sense it is portable?

Mr. CLARK: That is right.

Senator MACKENZIE: So you carry all the benefits that are accrued to your new job.

Mr. CLARK: This is done, at the moment, at the employee's own choice.

Senator MACKENZIE: And this is his own contribution and the government's contribution, plus interest.

Mr. CLARK: It is not related to X dollars of contributions. He can carry with him the entitlement—

Senator MACKENZIE: For the number of years at the going rate.

Mr. CLARK: Related to salary and pension, that is correct.

Mr. LEWIS: I know nothing about this. Does he carry that with him, or are you saying that if I resign from the government at age 50 and I have fifteen years of service that I leave with the government my pension entitlement of a certain amount which I can then draw upon when I reach age 60?

Mr. CLARK: That is what happens in the normal case, Mr. Lewis, but we do also have an increasing number of what we call reciprocal transfer agreements whereby there is a physical transfer of cash—employer-employee contributions plus interest—to the new employer and then that is used to purchase an entitlement under the new employer's pension plan. Vice versa, an employee coming from that employer, can transfer his entitlement.

Mr. LEWIS: What he has in his old fund over to you?

Mr. CLARK: Yes.

Mr. WALKER: Most of these arrangements are made with other governments, are they not?

Mr. CLARK: With other governments and universities and, through the amendments that were approved in the summer we can, in effect, make such an agreement with any so-called "approved employer," which really means one that has met the requirements of the Department of National Revenue. Here again, I hate to be sort of blowing up our plan, but we are the pioneers in this as well as in the matter of the ordinary portability and we have tried to encourage this with other employers across the country. Currently we are negotiating, perhaps, fifteen such agreements and we are hoping that more will be considered.

Senator MACKENZIE: Your entitlement is 5 years' service?

Mr. CLARK: Five years is the normal requirement to qualify for a pension.

Senator MACKENZIE: If you leave before that, you can take with you your contributions?

Mr. CLARK: That is right, we have one of these agreements to which I referred, a person with less than five years can transfer even the two years credits.

Mr. LEWIS: If he is below five years, does he have what I know as vesting rights; namely that when he transfers he transfers not only his contribution but the government's matching contribution plus interest?

Mr. CLARK: Under these agreements that is what happens.

Mr. LEWIS: Even under five years?

Mr. CLARK: Under these agreements, yes.

Mr. KNOWLES: Sir, may I remind members of the Committee that this is on the records of this Committee when we dealt with Bill No. C-391 some time in 1966. We were given a list of the agencies with which reciprocal agreements had been made. I think we were given a sample agreement.

The JOINT CHAIRMAN (*Mr. Richard*): Members of the Committee may go along with me when I say that the primary purpose of this Committee is to enquire into and report upon the matter of pensions paid to retired civil servants. I am afraid that we may at this time be going off on a tangent into an examination of the Public Service Superannuation Fund and its workings and not into the very matter which we are anxious to inquire into—at least some of us, I am sure. I imagine that if this Committee had been set up to examine the pension fund, it would have been set up as such in another manner, I am sure. We are here to inquire into and find out what can be done to relieve some people who have been superannuated, but not to re-establish the whole pension fund or to inquire into it which was done at great length last year in May and June, if I recall, as Mr. Knowles said. I know that there is a background, but I am sure that it is not a purpose of some of the questions to redraft the whole pension act and that is why I am very much interested like other members in all this.

Mr. KNOWLES: Next week will bring us to the real problem.

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I was wondering, if it is not for the purpose of clarification at the present time, if we could not agree that these gentlemen could come back with the type of information which would relate to the problem at hand, especially after having heard the witnesses who will, I hope, limit their testimony also to the problem which was presented to Parliament and, in the light of that, give us some information as to what suggestions they have to make to afford—not relief—but right to superannuate civil servants to adjust their pension in the light of the cost of living of 1967 and future years. I am sure that members will agree to that.

Mr. ÉMARD: Mr. President, I have a question which I think is pertinent to the matter we have to deal with. I would like to know if the present government plan has a disability clause.

Mr. CLARK: Yes, sir.

Mr. ÉMARD: You have?

Mr. CLARK: Again, after five years of service, a pension is payable on retirement on grounds of disability.

Mr. WALKER: One more question: Can a superannuated person, 60 years old, take his annuity with him if he has an opportunity to work for one of these other agencies with which you have a reciprocal agreement?

Mr. CLARK: He can have transfer made of the contributions which he has made, the employer's contributions, plus the interest.

Mr. WALKER: He can reactivate his pension in order to get more?

Mr. CLARK: Yes.

Senator MACKENZIE: He can draw his pension and get his new wages as well.

Mr. WALKER: No, that was not my question.

Can he increase his present superannuation pension by accepting employment with one of the agencies where you have portability arrangements?

Mr. CLARK: Only if he transfers it to that other employer and the effect of the other employer's pension plan is to increase that service credit.

Mr. WALKER: But it is not an increase within our own plan?

Mr. CLARK: No.

Mr. KNOWLES: There is nothing to stop a retired civil servant drawing pension from going to work for some non-government agency.

Mr. CLARK: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): On Tuesday, February 14, there will be a presentation by the Federal Superannuates National Association at 9:30 in this room.

Senator MACKENZIE: Does it have to be 9:30 Mr. Chairman? There is correspondence we have to look after.

The JOINT CHAIRMAN (*Mr. Richard*): Well, a lesser trouble that we have just now is to adjust our Committees to the other committees that are already sitting, such as, national defence, banking broadcasting and so on.

Mr. KNOWLES: Do we have to get out at 11, or something?

The JOINT CHAIRMAN (*Mr. Richard*): We have to get out at 11 o'clock, so we have to be here by 9:30. The Clerk has suggested that there should be a motion to pay travel expenses for the Superannuates; would you explain that to us Mr. Thomas?

The CLERK OF THE COMMITTEE: Mr. Chatterton has written to us asking that we pay the travelling expenses of the first and second vice-presidents and the secretary-treasurer of the Superannuates. This was done for them when they appeared before the Canada Pension Plan committee.

Mr. KNOWLES: I so move.

Mr. BELL (*Carleton*): I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed?

Mr. LEWIS: What is it?

The CLERK OF THE COMMITTEE: Reasonable living and travelling expenses.
Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Clark, Mr. Caron and Mr. Clarke. The meeting is adjourned.

APPENDIX "W"

REPORT ON THE ADMINISTRATION OF THE
PUBLIC SERVICE SUPERANNUATION ACT
FOR THE FISCAL YEAR ENDED MARCH 31, 1966

SUPERANNUATION PLAN

The Public Service Superannuation Act applies, with few exceptions, to public servants engaged in employment of a full-time continuous nature at an annual salary of \$900 or more. Contribution rates are set at the levels estimated to be required to accumulate enough funds during the working lifetime of contributors to provide for specified retirement pensions and subsidiary benefits. The balance in the Superannuation Account is the amount which, together with future contributions from present contributors, the matching contributions by the Government and interest earnings, should be sufficient to provide all benefits to past and present contributors and their dependents as stipulated in the Act on the assumption that retirements, deaths, cash withdrawals, proportions of contributors married, relative ages of widows and so on, of those who are contributors on a particular date will essentially follow the pattern of the past. In addition to matching employee contributions, the Government credits the account with interest and assumes responsibility for any actuarial deficits. The Superannuation Account is operated in accordance with principles of funding generally accepted for employee-employer pension plans.

Membership

In the course of the year, 26,583 employees became contributors while 18,452 employees ceased to contribute resulting in an increase of 8,131 contributors. As at March 31, 1966, there were 185,045 active contributors under the Public Service Superannuation Act.

Annuities

During 1965-66, 3,279 immediate annuities, 106 deferred annuities, and 21 actuarial equivalent allowances became payable. Also, 1,446 widows' allowances and 608 children's allowances became payable. As at March 31, 1966, there were 49,440 persons receiving pension benefits payable out of the Superannuation Account. These include 30,923 former employees, 15,252 widows and 3,265 children.

The average annuity which became payable to employees was \$1,949. Widows, on the other hand, received an average allowance of \$855 and children \$156. These annuities would be much higher if the employees concerned had all completed thirty-five or more years of service, as can be seen from the following table:

<i>Pensionable Service</i>	<i>Approximate Average Immediate Annuity</i>
35 years	\$ 3,868
30-34 "	3,591
25-29 "	2,798
20-24 "	2,319
15-19 "	1,568
10-14 "	1,022
5- 9 "	607

Thus, many who retire after comparatively short periods of service receive annuities which are much smaller than would otherwise be the case.

SUPERANNUATION ACCOUNT

Income

Income for the year included \$66.7 million in employee contributions and \$89.5 million in interest. The Federal Government's matching contributions amounted to \$57.8 million while the Crown Corporations' matching contributions amounted to \$3.7 million. The amounts transferred from other pension funds to the Superannuation Account amounted to \$1.2 million. In addition an amount of \$79.6 million was credited as a deferred charge in respect of the actuarial liability arising out of salary revisions in 1965-1966 and credited to the Superannuation Account.

A new policy was introduced in the 1964-65 fiscal year whereby actuarial deficiencies arising out of pay increases in the preceding year were to be amortized over a five-year period commencing in 1964-65 and those arising out of pay increases authorized in 1964-65 and subsequent years were to be amortized over a five-year period commencing in the year in which the increase is authorized. Under this arrangement there was a Government budgetary contribution in the year 1965-66 of \$10.0 million in respect of the outstanding deferred charge as at March 31, 1965 and \$15.9 million in respect of the deferred charge for the fiscal year 1965-66.

Expenditure

Expenditure included \$57.7 million in annuities, \$106,571 in gratuities and \$209,000 in residual amounts. Refunds of contributions amounted to \$11.3 million while transfers to other pension funds amounted to \$600,000. The total expenditure for the year amounted to \$69.9 million.

Retirement Fund

Before being designated as a contributor to the Superannuation Account a prevailing rate employee or a seasonal employee engaged in full-time employment at an annual salary of \$900 or more during 1965-66 was required to contribute $6\frac{1}{2}$ per cent of his salary or 5 per cent of her salary to the Retirement Fund. These contributions earn interest at the rate of 4 per cent per annum on the total amount to the employee's credit as at December 31 each year. As at March 31, 1966 there were 7,665 contributors to the Retirement Fund.

Contributions to the Retirement Fund totalled \$1.8 million and interest in the amount of \$225,000 was credited to the Fund. Expenditures were \$1.5 million transferred to the Superannuation Account in respect of employees who became contributors to that Account and \$1.1 million paid to employees who separated from the service. The balance in the Fund as at March 31, 1966 was \$5.2 million.

SUPPLEMENTARY DEATH BENEFIT PLAN

The Supplementary Death Benefit Plan (Part II of the Public Service Superannuation Act) provides a lump sum benefit which is related to the salary of the contributor, and, as at March 31, 1966 was subject to a maximum of \$5,000. Contributions are made at the rate of 10 cents a month for each \$250 of coverage. The plan was applicable to the Armed Forces as well as the Public Service.

Membership

As at March 31, 1966, there were 174,161 Public Service participants, 102,904 Regular Forces participants, and 26,889 retired elective participants.

Benefits

During the year, 1,491 death benefits were paid from the Public Service Death Benefit Account while 258 death benefits were paid from the Regular Forces Death Benefit Account.

PUBLIC SERVICE DEATH BENEFIT ACCOUNT

Income

The income of the Public Service Death Benefit Account included \$3.95 million for employee contributions, \$1.3 million for Federal Government and Crown Corporation contributions and \$416,000 for interest. The total income for the year amounted to \$5.6 million.

Expenditure

Expenditures from the Public Service Death Benefit Account included \$4.3 million for benefits and \$7,500 for refund of contributions.

REGULAR FORCES DEATH BENEFIT ACCOUNT

Income

The income of the Regular Forces Death Benefit Account included \$2.0 million for employee contributions, \$172,000 for the Federal Government contributions and \$624,000 for interest. The total income for the year amounted to \$2.7 million.

Expenditure

Benefits paid from the Regular Forces Death Benefit Account amounted to \$1,025,300.

The following are the statements on the Public Service Superannuation Account, the Public Service Death Benefit Account and the Regular Forces Death Benefit Account for the period April 1, 1965 to March 31, 1966.

PUBLIC SERVICE SUPERANNUATION ACCOUNT

<i>Balance as at</i>		
<i>April 1, 1965</i>		\$ 2,161,828,359
<i>Income</i>		
Contributions		
Employee	\$ 66,019,010	
Retired Employee	706,019	
	<hr/>	
		\$ 66,725,029
Matching Contributions		
Government	57,778,086	
Crown Corporations .	3,680,055	
	<hr/>	
		61,458,141
Transferred from other pension funds		1,179,391
Interest		89,499,085
Actuarial Liability Adjustment		79,600,000
		<hr/>
		298,461,646
<i>Expenditure</i>		
Annuities	57,674,369	
Gratuities	106,571	
Residual Amounts ...	209,141	
Returns of Contributions	11,316,605	
Transferred to other pension funds	600,228	
	<hr/>	
		69,906,914
<i>Excess of income over expenditure</i>		228,554,732
		<hr/>
<i>Balance as at</i>		
<i>March 31, 1966</i>		\$ 2,390,383,091
		<hr/> <hr/>

PUBLIC SERVICE DEATH BENEFIT ACCOUNT

<i>Balance as at</i>		
<i>April 1, 1965</i>		\$ 9,875,938
<i>Income</i>		
Contributions		
Employee—Government and Crown Corporation	\$ 3,951,068	
Government		
One-sixth of ordinary benefit payments	\$ 666,788	
Single premium for \$500 death benefit coverage for life	588,771	
		1,255,559
Crown Corporations		19,273
Interest		415,938
		5,641,838
<i>Expenditure</i>		
Benefit Payments		
Subject to Ordinary Premiums	4,000,730	
Paid-up Benefits	302,235	
Other	10,000	
		4,312,965
Refund of Contributions		7,547
		4,320,512
<i>Excess of income over expenditure</i> ..		1,321,326
<i>Balance as at March 31, 1966</i>		<u>\$11,197,264</u>

REGULAR FORCES DEATH BENEFIT ACCOUNT

Balance as of April 1, 1965	\$	\$	\$15,009,923
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Income

Contributions

Employee	1,936,381
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Government

One-sixth of ordinary benefit payments	169,883
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Single premium for \$500 death benefit coverage for life	2,170
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172,053

Interest	623,815
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2,732,249
Expenditure

Benefit Payments

Subject to Ordinary Premiums ..	1,019,300
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Other	6,000
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1,025,300

Excess of income over expenditure ...	1,706,949
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Balance as at March 31, 1966	16,716,872
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The details of the year's operations are given in the Statistical Tables appended to this Report.

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TABLE 1
SUPERANNUATION ACCOUNT
COMPARATIVE STATISTICS, APRIL 1, 1924 TO MARCH 31, 1966
Part 1—Receipts

Fiscal Year	Employee Contributions ¹	Income			Outstanding Deferred Charges	Other Contributions ²	Total
		Interest	Budgetary Charges	Deferred Charges			
	\$	\$	\$	\$	\$	\$	\$
1924-56.....	251,946,705	163,739,772	412,712,002	214,000,000	189,000,000	8,581,008	1,025,979,487 ³
1956-57.....	34,931,788	34,944,194	122,359,994 ⁴		139,000,000	1,197,466	143,433,442
1957-58.....	38,849,667	39,784,219	78,083,186 ⁵			1,307,570	158,024,642
1958-59.....	41,265,557	43,717,482	37,646,322			1,425,355	124,054,716
1959-60.....	43,011,989	47,418,569	40,001,080			1,917,306	132,348,944
1960-61.....	48,771,576	51,253,931	41,444,857	137,661,000	276,661,000 ⁶	2,010,813	281,142,177 ⁶
1961-62.....	53,578,678	61,169,348	46,930,410			2,595,924	164,274,360
1962-63.....	57,732,045	66,361,541	51,076,449			13,832,785	189,002,820
1963-64.....	59,938,280	71,756,270	54,015,701			3,389,175	189,099,426
1964-65.....	61,817,545	78,715,785	65,602,340 ⁷	159,477,000 ⁷	39,921,000 ⁷	3,968,695	369,581,365 ⁷
1965-66.....	66,725,029	89,499,085	83,678,283 ⁸	63,680,000 ⁸	93,620,800 ⁸	4,859,446	298,461,646 ⁸
	758,568,859	748,360,196	1,033,550,627	590,738,000		45,085,543	3,075,403,025

¹ Includes amounts consisting of employee contributions and interest earned, that are transferred from the Retirement Fund.

² Includes the matching contributions of Crown Corporations, amounts credited to the Account from the Canadian Forces Superannuation Account and the Royal Canadian Mounted Police Superannuation Account, and amounts transferred to the Superannuation Account pursuant to the Reciprocal Transfer Agreements that have been made with other public service employers.

³ This amount includes a credit of \$214 million set up as a deferred charge during the fiscal year 1951-52 equal to the actuarial deficit then existing in the Account. This deferred charge was reduced to \$189 million by a special vote on March 31, 1958.

⁴ Includes \$40.8 million credited to the Account in respect of the additional liability arising out of the general salary increase of April 1, 1956 and \$50 million to reduce the deferred charge.

⁵ Includes \$44.9 million credited to the Account in respect of the general salary increase of May 1, 1957.

⁶ Includes \$137,661 million, representing the actuarial deficit in the Account as of December 31, 1957, credited to the Account as an additional deferred charge during the fiscal year 1960-61.

⁷ In this year, \$119,556,000 was credited as a deferred charge in respect of the actuarial liability reported as at December 31, 1962 and \$19,901,000 in respect of the actuarial liability in respect of salary revisions in 1963-64 and 1964-65. An amount of \$396,217,000 equal to the sum of the previous deferred charges of \$276,661,000 and the new one of \$119,556,000 was transferred to the Account as a deferred charge. The total amount of \$516,173,000 was credited to the Account as a deferred charge in respect of these transactions was, therefore, a deferred charge of \$29,921,000 outstanding as at March 31, 1965.

⁸ In this year, \$79,000,000 was credited as a deferred charge in respect of the actuarial liability arising out of salary increases in 1965-66. A Government budgetary contribution of one-fifth of this amount, \$15,920,000, was made, as well as the second instalment of \$9,980,000 which was applied against the deferred charge of \$39,921,000 mentioned in footnote 7. The outstanding deferred charge as at March 31, 1966 is therefore \$93,620,800.

TABLE 1
 SUPERANNUATION ACCOUNT
 COMPARATIVE STATISTICS, APRIL 1, 1924 TO MARCH 31, 1966
 Part 2—Expenditure and Balance to the Credit of the Account

Fiscal Year	Expenditure			Total	Net Increase in the Account	Balance to the Credit of the Account
	Annuities	Gratuities	Withdrawals and Transfers ¹			
	\$	\$	\$	\$	\$	\$
1924-56.....	201,184,698	3,437,072	17,121,434	221,743,204	114,707,703	918,943,986
1956-57.....	22,936,066	67,453	5,722,220	28,725,739	126,816,453	1,045,700,439
1957-58.....	25,682,058	49,825	5,476,306	31,208,189	90,261,424	1,136,021,863
1958-59.....	28,480,852	74,442	5,237,998	33,793,292	93,598,459	1,229,620,322
1959-60.....	31,668,704	47,187	7,034,534	38,750,485	239,227,786	1,468,848,108
1960-61.....	35,241,095	53,673	6,619,623	41,914,391	118,081,290	1,586,929,398
1961-62.....	39,104,311	58,241	7,030,518	46,193,070	137,186,706	1,724,116,104
1962-63.....	43,586,185	63,966	8,165,963	51,816,114	132,291,518	1,856,407,623
1963-64.....	47,823,640	75,967	8,908,301	56,807,908	305,420,736	2,161,828,358
1964-65.....	52,586,584	124,482	11,449,563	64,160,629	228,554,732	2,390,383,091
1965-66.....	57,674,369	106,571	12,125,974	69,906,914		
	585,986,622	4,158,879	94,892,434	685,019,935		

¹ Includes returns of contributions, transfers to other pension funds and residual amounts.

TABLE 2
SUPERANNUATION ACCOUNT
COMPARATIVE STATISTICS, APRIL 1, 1956 TO MARCH 31, 1966—ANNUITIES PAYABLE AND ANNUITIES BECOMING PAYABLE

Fiscal Year	Total Pension Payroll or Total Beneficiaries' as at March 31	Annuities Becoming Payable to Contributors					Allowances Becoming Payable to Dependents								
		Males			Females		Annual Value		Annual Value						
							Total	Average	Total	Average	Widows	Children	Total	Average Allowance per Family	
														\$	\$
1956-57	21,880	1,729	259	3,002,296	1,510	771	312	481,113	444	624					
1957-58	24,045	1,848	316	3,250,289	1,502	955	350	636,984	488	659					
1958-59	26,051	1,992	307	3,327,874	1,448	718	287	513,875	511	707					
1959-60	31,109	1,732	288	3,053,627	1,512	835	314	613,656	534	733					
1960-61	34,574	2,739	477	5,334,627	1,659	1,247	513	903,625	513	713					
1961-62	37,501	2,304	449	4,876,297	1,771	1,128	473	923,870	577	808					
1962-63	40,256	1,926	463	4,537,610	1,899	1,289	537	1,056,538	579	813					
1963-64	43,361	2,320	616	5,756,760	1,961	1,316	598	1,289,714	674	965					
1964-65	46,377	2,638	662	5,967,966	1,808	1,438	584	1,287,103	637	886					
1965-66	49,440	2,580	826	6,638,559	1,949	1,446	608	1,330,525	648	908					

¹ Prior to 1959-60, these figures were the total number of cheques issued. This number was smaller than the number of beneficiaries since a widow receiving an allowance on behalf of her children counted as one. After 1959-60, the figures are the total number of beneficiaries.

TABLE 3
SUPERANNUATION ACCOUNT

COMPARATIVE STATISTICS, APRIL 1, 1956 TO MARCH 31, 1966—BENEFITS OTHER THAN IMMEDIATE ANNUITIES TO WHICH CONTRIBUTORS BECAME ENTITLED

Fiscal Year	Actuarial Equivalent Allowances Which Became Payable			Deferred Annuities to Which Contributors Became Entitled			Deferred Annuities Which Became Payable			Lump Sum Payments ¹	
	Males	Females	Average Allowance	Males	Females	Average Annuity	Males	Females	Average Annuity	Number	Amount
			\$			\$			\$		\$
1956-57.....	6	2	1,224	139	67		11	6	955	13,833	5,628,583
1957-58.....	6	2	1,337	107	65		10	9	889	17,468	5,358,755
1958-59.....	10	1	831	43	30	1,013	17	16	839	13,369	5,149,994
1959-60.....	3	1	709	122	73	1,093	17	13	883	14,695	6,967,279
1960-61.....	11	2	598	222	149	1,074	46	19	1,006	12,947	6,373,067
1961-62.....	6	5	1,226	167	82	1,341	25	22	956	11,970	6,958,372
1962-63.....	8	4	1,287	141	76	1,424	36	31	1,102	11,496	7,925,667
1963-64.....	18	1	1,179	166	107	1,358	41	25	1,025	12,081	8,653,104
1964-65.....	38	3	800	342	184	1,456	72	30	1,164	13,883	10,679,465
1965-66.....	17	4	927	294	153	1,481	53	49	1,408	14,188	11,887,693

¹ Includes gratuities and returns of contributions to contributors and dependents.

TABLE 4
SUPERANNUATION ACCOUNT

TYPES OF BENEFITS TO WHICH CONTRIBUTORS BECAME ENTITLED, APRIL 1, 1965 TO MARCH 31, 1966

Type of Benefit	See Also	Total Number	Males	Females	Total Annual Rate or Actual Value* of New Benefits	Average Benefit
					\$	\$
<i>Benefits Becoming Payable</i>						
Annuitants and Annual Allowances						
Immediate Annuitants	Tables 7 and 8	2,938	2,280	658	5,882,094	2,002
Age.....	Table 9	341	229	112	591,200	1,734
Disability.....						
Deferred Annuitants ¹						
Becoming Payable.....	Table 12	102	53	49	143,600	1,408
Payable Due to Disability.....	Table 12A	4	1	3	2,201	550
Immediate and Deferred Actuarial Equivalent Allowances ²	Table 11	21	17	4	19,464	927
Total.....		3,406	2,580	826	6,638,559	1,949
Lump Sum Payments						
Gratuities.....	Table 15	34	27	7	97,132*	2,857
Returns of Contributions.....	Table 15	13,933	7,722	6,211	11,475,532*	824
Total.....		13,967	7,749	6,218	11,572,664*	829
<i>Deferred Benefits to Which Contributors Became Entitled</i>						
Deferred Annuitants and Actuarial Equivalent Allowances..	Table 10	447	294	153	662,012	1,481

¹ A contributor may choose a deferred annuity if he retires before age sixty with five years of pensionable service.

² Actuarial equivalent allowances are adjusted annuities that may be granted by the Treasury Board.

TABLE 5
SUPERANNUATION ACCOUNT

TYPE OF BENEFIT BECOMING PAYABLE TO DEPENDENTS OF CONTRIBUTORS, APRIL 1, 1965 TO MARCH 31, 1966

Type of Benefit	See Also	Total Number	Number According to Time Total Annual of Contributor's Death			Average Benefit
			Death in the Service	Death After Retirement	Actual Value* Rate or of New Benefits	
					\$	\$
Annual Allowances						
Widows' Allowances.....	Table 13	1,446	498	948	1,235,853	855
Children's Allowances.....	Table 13	608	519	89	94,672	156
Total.....		2,054	1,017	1,037	1,330,525	648
Lump Sum Payments						
Returns of Contributions ¹	Table 15	221	221	0	412,161*	1,865
Residual Amounts ²		127	0	127	202,490*	1,516
Total.....		348	221	127	614,651	1,766

¹ No annuity is involved.

² If upon the death of a person who was in receipt of an annuity benefit there is no one to whom an annuity benefit may be paid, the balance to the credit of the contributor, a residual amount, is paid to the estate of the contributor or if less than \$500 as authorized by the Treasury Board.

TABLE 6
SUPERANNUATION ACCOUNT
BENEFITS TERMINATED, APRIL 1, 1965 TO MARCH 31, 1966

Type of Benefit	See Also	Terminated for Reason of				Reached Age 18	Total Annual Rate
		Death	Re-employed ¹	Regained Health	Remarriage		
\$							
Benefits in Payment							
To Former Contributors.....	Table 16	1,489	0	1			2,306,222
To Widows.....	Table 17	382			75		286,578
To Children.....	Table 17					450	53,281
Total.....		1,871	0	1	75	450	2,646,081
Deferred Benefits.....	Table 18	4					2,856

¹ Figures cited here include only those annuities totally suspended and not reinstated during the fiscal year.

TABLE 7
SUPERANNUATION ACCOUNT

CONTRIBUTORS RETIRING ON ACCOUNT OF AGE AND BECOMING ENTITLED TO IMMEDIATE ANNUITIES,
APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY
AND YEARS OF PENSIONABLE SERVICE

Amount of Annuity	Years of Pensionable Service							Total
	5-9	10-14	15-19	20-24	25-29	30-34	35*	
\$								
0 to 360.....	33	2	1	1				37
361 to 720.....	385	110	3	5	2	1	1	507
721 to 1,080.....	66	417	55	6	2	2	1	549
1,081 to 1,440.....	12	133	177	39	2		1	364
1,441 to 1,800.....	2	39	122	98	12	1		269
1,801 to 2,160.....	1	12	49	104	46	2		214
2,161 to 2,520.....	1	8	22	66	55	5	7	164
2,521 to 2,880.....		2	12	45	35	26	25	145
2,881 to 3,240.....	2		5	23	25	21	111	187
3,241 to 3,600.....		2	4	16	21	9	83	135
3,601 to 3,960.....			2	10	8	6	49	75
3,961 to 4,320.....			4	8	5	9	38	64
4,321 to 4,680.....		1		5	4	7	35	52
4,681 to 5,040.....			1	5	2	3	22	33
5,041 to 5,400.....			1	3	1	2	17	24
Over 5,400.....				15	17	20	67	119
Total Males.....	383	574	367	311	202	93	350	2,280
Total Females.....	119	152	91	133	35	21	107	658
Total.....	502	726	458	444	237	114	457	2,938

*Maximum years of pensionable service.

TABLE 8

SUPERANNUATION ACCOUNT

CONTRIBUTORS RETIRING ON ACCOUNT OF AGE AND BECOMING ENTITLED TO IMMEDIATE ANNUITIES,
APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity \$	Age at Retirement													Total
	60	61	62	63	64	65	66	67	68	69	70	71	72	73 and over
0 to 360.....	4		1	4	4	10	4	5		3	2			37
361 to 720.....	25	21	26	17	18	163	85	65	42	24	18	2		507
721 to 1,080.....	22	23	21	22	25	193	96	57	43	31	14	2		549
1,081 to 1,440.....	20	22	9	24	24	136	53	22	28	12	13	1		364
1,441 to 1,800.....	19	5	9	10	10	124	56	14	13	5	10			269
1,801 to 2,160.....	21	11	7	10	5	87	40	12	9	5	6	1		214
2,161 to 2,520.....	19	16	6	8	14	56	21	13	5	5	1			164
2,521 to 2,880.....	24	6	9	9	4	63	15	8	4	3				145
2,881 to 3,240.....	32	12	12	17	13	64	21	9	2	3	1		1	187
3,241 to 3,600.....	19	10	5	11	14	63	8	2	1	2				135
3,601 to 3,960.....	13	3	5	10	5	20	13	2	2	2				75
3,961 to 4,320.....	7	3	8	8	3	21	9	4		1				64
4,321 to 4,680.....	5		6	7	4	16	9	5						52
4,681 to 5,040.....	4	4	2	4	1	12	6							33
5,041 to 5,400.....	4	1	1		3	9	3	3						24
Over 5,400.....	19	6	7	4	7	33	17	8	6	4	7	1		119
Total Males.....	191	97	92	118	107	869	364	173	117	88	57	5	1	2,280
Total Females.....	66	46	42	47	47	201	86	56	38	12	15	2		658
Total.....	257	143	134	165	154	1,070	450	229	155	100	72	7	1	2,938

TABLE 9
SUPERANNUATION ACCOUNT

CONTRIBUTORS RETIRING ON ACCOUNT OF DISABILITY AND BECOMING ENTITLED TO IMMEDIATE ANNUITIES,
APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY
AND AGE AT RETIREMENT

Amount of Annuity	Age at Retirement						Total
	Under 35	35-39	40-44	45-49	50-54	55-59	
\$							
0 to 360.....			2		1	4	7
361 to 720.....	1	1	5	6	12	25	50
721 to 1,080.....		2	6	8	12	22	50
1,081 to 1,440.....	1		3	5	18	19	46
1,441 to 1,800.....		2	5	13	13	22	55
1,801 to 2,160.....	1		3	9	7	17	37
2,161 to 2,520.....			1	5	7	11	24
2,521 to 2,880.....				2	7	13	22
2,881 to 3,240.....				1	6	10	17
3,241 to 3,600.....				1	1	13	15
3,601 to 3,960.....			1			8	9
3,961 to 4,320.....							
4,321 to 4,680.....						4	4
4,681 to 5,040.....						2	2
5,041 to 5,400.....						1	1
Over 5,400.....						2	2
Total Males.....	2	4	16	35	55	117	229
Total Females.....	1	1	10	15	29	56	112
Total.....	3	5	26	50	84	173	341

NOTE. Of those retiring on account of disability, 42 were classified as requiring a medical re-examination at the end of a probationary period to determine their eligibility to continue to receive a disability pension. As a result of 41 medical re-examinations of contributors receiving disability pensions, 32 were classified as permanently disabled and still eligible to receive a pension, 7 were classified as still disabled but requiring another re-examination at the end of a further probationary period while 2 regained their health.

TABLE 10
SUPERANNUATION ACCOUNT

CONTRIBUTORS BECOMING ENTITLED¹ TO DEFERRED ANNUITIES, APRIL 1, 1965 TO MARCH 31, 1966—
CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity		Age at Retirement							Total
		Under 30	30-34	35-39	40-44	45-49	50-54	55-59	
\$									
0 to	360.....	1			1		2	1	5
361 to	720.....	5	7	11	4	10	22	29	88
721 to	1,080.....	2	9	9	20	9	19	22	90
1,081 to	1,440.....		6	14	17	19	15	15	86
1,441 to	1,800.....		1	8	15	11	12	10	57
1,801 to	2,160.....	1		2	13	12	8	8	44
2,161 to	2,520.....		1	2	5	5	3	3	19
2,521 to	2,880.....			2	7	3	7	3	22
2,881 to	3,240.....				5	3		3	11
3,241 to	3,600.....			1	1	3	1	5	11
3,601 to	3,960.....			1	1	1			3
3,961 to	4,320.....				1	1		2	4
4,321 to	4,680.....					1			1
4,681 to	5,040.....						1	1	2
5,041 to	5,400.....								
Over	5,400.....						2	2	4
Total Males.....		5	17	32	69	58	58	55	294
Total Females.....		4	7	18	21	20	34	49	153
Total.....		9	24	50	90	78	92	104	447

¹ Deferred annuities are payable at age sixty or earlier in case of disability. The deferred annuities becoming payable during the fiscal year are shown in the extreme right hand column of Table 12.

TABLE 11
SUPERANNUATION ACCOUNT

CONTRIBUTORS BECOMING ENTITLED TO ACTUARIAL EQUIVALENT ALLOWANCES, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND AGE AT RETIREMENT

Amount of Annuity	Age at Retirement					
	Deferred Actuarial Equivalent Allowances ¹			Immediate Actuarial Equivalent Allowances		
	Under 45	45-49	Total	50-54	55-59	Total
\$						
0 to 360.....				2		2
361 to 720.....				6	3	9
721 to 1,080.....				2	3	5
1,081 to 1,440.....				2		2
1,441 to 1,800.....						
1,801 to 2,160.....						
2,161 to 2,520.....					2	2
2,521 to 2,880.....					1	1
2,881 to 3,240.....						
3,241 to 3,600.....						
3,601 to 3,960.....						
3,961 to 4,320.....						
4,321 to 4,680.....						
4,681 to 5,040.....						
5,041 to 5,400.....						
Over 5,400.....						
Total Males.....	0	0	0	9	8	17
Total Females.....	0	0	0	3	1	4
Total.....	0	0	0	12	9	21

¹ Actuarial equivalent allowances granted prior to age fifty do not become payable until age fifty.

TABLE 12
SUPERANNUATION ACCOUNT

CONTRIBUTORS TO WHOM ACTUARIAL EQUIVALENT ALLOWANCES OR DEFERRED ANNUITIES BECAME PAYABLE,
APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND
AGE AT WHICH PAYMENT COMMENCED

Amount of Annuity \$	Age at Which Payment Commenced											Total
	50	51	52	53	54	55	56	57	58	59	60 ¹	
0 to 360.....	1			1							10	12
361 to 720.....	3	1		1	1	1		1	1		22	31
721 to 1,080.....	1			1			1	1	1		20	25
1,081 to 1,440.....				1	1						20	22
1,441 to 1,800.....											6	6
1,801 to 2,160.....											4	4
2,161 to 2,520.....							1	1			9	11
2,521 to 2,880.....						1					2	3
2,881 to 3,240.....											3	3
3,241 to 3,600.....											1	1
3,601 to 3,960.....												
3,961 to 4,320.....											1	1
4,321 to 4,680.....												
4,681 to 5,040.....											1	1
5,041 to 5,400.....											1	1
Over 5,400.....											2	2
Total Males.....	2	1	0	4	2	1	2	3	2	0	53	70
Total Females.....	3	0	0	0	0	1	0	0	0	0	49	53
Total.....	5	1	0	4	2	2	2	3	2	0	102	123

¹ Allowances becoming payable at age sixty are deferred annuities while the other allowances are actuarial equivalent allowances.

TABLE 12A
SUPERANNUATION ACCOUNT

CONTRIBUTORS TO WHOM DEFERRED ANNUITIES BECAME PAYABLE BEFORE AGE SIXTY ON ACCOUNT OF
DISABILITY, APRIL 1, 1965 TO MARCH 31, 1966—CLASSIFIED ACCORDING TO AMOUNT OF
ANNUITY AND AGE AT WHICH PAYMENT COMMENCED

Amount of Annuity	Age at Which Payment Commenced										Total
	50 and under	51	52	53	54	55	56	57	58	59	
\$											
0 to 360.....	1										1
361 to 720.....			1			1					2
721 to 1,080.....								1			1
1,081 to 1,440.....											
1,441 to 1,800.....											
1,801 to 2,160.....											
2,161 to 2,520.....											
2,521 to 2,880.....											
2,881 to 3,240.....											
3,241 to 3,600.....											
3,601 to 3,960.....											
3,961 to 4,320.....											
4,321 to 4,680.....											
4,681 to 5,040.....											
5,041 to 5,400.....											
Over 5,400.....											
Total Males.....	0	0	0	0	0	0	0	1	0	0	1
Total Females.....	1	0	1	0	0	1	0	0	0	0	3
Total.....	1	0	1	0	0	1	0	1	0	0	4

TABLE 13
SUPERANNUATION ACCOUNT

WIDOWS AND CHILDREN TO WHOM ANNUAL ALLOWANCES BECAME PAYABLE, APRIL 1, 1965 TO MARCH 31, 1966
—CLASSIFIED ACCORDING TO AMOUNT OF ANNUITY AND TIME OF CONTRIBUTOR'S DEATH

Amount of Allowance	Time of Contributor's Death					
	Death in the Service			Death After Retirement		
	Widows	Non-orphaned Children	Orphaned Children	Widows	Non-orphaned Children	Orphaned Children
\$						
0 to 360.....	90	473	15	205	82	5
361 to 720.....	174	24	3	289		1
721 to 1,080.....	96	3		183	1	
1,081 to 1,440.....	63			132		
1,441 to 1,800.....	34		1	68		
1,801 to 2,160.....	18			38		
2,161 to 2,520.....	8			15		
2,521 to 2,880.....				6		
2,881 to 3,240.....	8			6		
3,241 to 3,600.....	4			3		
3,601 to 3,960.....	1			1		
3,961 to 4,320.....	2			1		
4,321 to 4,680.....						
4,681 to 5,040.....						
5,041 to 5,400.....				1		
Over 5,400.....						
Total.....	498	500	19	948	83	6

TABLE 14
SUPERANNUATION ACCOUNT, RETIREMENT FUND
AND DEATH BENEFIT ACCOUNTS

POPULATION CHANGES, APRIL 1, 1965 TO MARCH 31, 1966

	See Also	Number, April 1, 1965	Additions	Deletions	Number, March 31, 1966
<i>Superannuation Account</i>					
Contributors.....	Table 15	176,914	26,583	18,452	185,045
Ex-contributors on pension.....	Table 16	29,007	3,396	1,490	30,913
Widows on pension.....	Table 17	14,263	1,446	457	15,252
Children on pension.....	Table 17	3,107	608	450	3,265
Deferred Annuitants not on pension.....	Table 18	2,350	447	106	2,691
<i>Retirement Fund</i>					
Contributors.....		9,825	—*	—	7,665
<i>Death Benefit Accounts</i>					
<i>Public Service</i>					
Active Participants.....	Table 20	165,782	26,192	17,813	174,161
Retired Participants.....	Table 20	14,388	3,269	762	16,895
<i>Regular Forces</i>					
Active Participants.....	Table 20	109,303	9,960	16,359	102,904
Retired Participants.....	Table 20	7,865	2,558	429	9,994

*A dash indicates that the figures are not available.

TABLE 15
SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF ACTIVE CONTRIBUTORS TO THE SUPERANNUATION
ACCOUNT, APRIL 1, 1965 TO MARCH 31, 1966

	Males	Females	Total
Number of Active Contributors, April 1, 1965.....	135,212	41,702	176,914
Additions			
Classified.....	13,962	9,453	23,415
Prevailing Rate.....	2,147	310	2,457
Seasonal.....	257	2	259
Sessional.....	6	0	6
Clerk of Works.....	1	5	6
Casual.....	3	6	9
Assistant Revenue Postmaster.....	100	331	431
Total.....	16,476	10,107	26,583
Deletions			
Employees Leaving the Public Service			
Returns of contributions paid.....	7,722	6,211	13,933
Gratuities paid.....	27	7	34
Pensions paid ¹	2,526	774	3,300
Chose deferred annuities.....	294	153	447
Death in the Public Service			
Returns of contributions paid to dependents.....	114	107	221
Pensions paid to dependents.....	517	0	517
Total.....	11,200	7,252	18,452
Number of Active Contributors, March 31, 1966.....	140,488	44,557	185,045

¹ Excludes deferred annuities becoming payable during the fiscal year.

TABLE 16
SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF CONTRIBUTORS ON PENSION, APRIL 1, 1965 TO MARCH 31, 1966

Number of Contributors on Pension, April 1, 1965.....	29,007
Additions	
Retirements on Pension.....	3,300
Deferred Annuities Becoming Payable.....	102
Deferred Annuities Changed to Disability Pension.....	4
	3,406
	32,413
Deletions	
Died.....	1,489
Health Regained.....	1
	1,490
Number of Contributors on Pension, March 31, 1966.....	30,923

TABLE 17
SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF WIDOWS AND CHILDREN ON PENSION APRIL 1, 1965 TO MARCH 31, 1966

<i>Widows</i>		
Number of Widows on Pension, April 1, 1965.....		14,263
Additions		
Death in the Service.....	498	
Death after Retirement.....	948	
		1,446
		15,709
Deletions		
Death.....	382	
Remarriage.....	75	
		457
Number of Widows on Pension, March 31, 1966.....		15,252
<i>Children</i>		
Number of Children on Pension, April 1, 1965.....		3,107
Additions		
Death in the Service.....	519	
Death after Retirement.....	89	
		608
		3,715
Deletions		
Reached Age 18.....	450	
Other.....	0	
		450
Number of Children on Pension, March 31, 1966.....		3,265

TABLE 18
SUPERANNUATION ACCOUNT

CHANGES IN THE NUMBER OF DEFERRED ANNUITANTS, INCLUDING ACTUARIAL EQUIVALENT
ANNUITANTS, APRIL 1, 1965 TO MARCH 31, 1966

Number of Deferred Annuitants, April 1, 1965.....		2,350
Additions		
Deferred Annuitants.....	447	
Deferred Actuarial Equivalent Annuitants.....	0	
		<u>447</u>
		2,797
Deletions		
Death.....	0	
Re-employment.....	0	
Annuities Becoming Payable.....	106	
		<u>106</u>
Number of Deferred Annuitants, March 31, 1966.....		2,691

TABLE 19
DEATH BENEFIT ACCOUNTS

COMPARATIVE STATISTICS, APRIL 1, 1956 TO MARCH 31, 1966—THE NUMBER OF PARTICIPANTS AND THE DEATH BENEFITS PAID

Fiscal Year	Active Participants ¹			Retired Participants ²			Death Benefits Paid			
	Total	Males	Females	Total	Males	Females	Total	Males	Females	Amount Paid
<i>Public Service</i>										
1956-57	138,119	103,866	34,253	1,834	—*	—	649	596	53	2,133,086
1957-58	144,878	110,851	34,027	2,955	—	—	847	806	41	2,594,358
1958-59	149,919	114,925	34,994	3,982	—	—	951	891	60	3,006,758
1959-60	155,693	120,096	35,597	5,010	—	—	865	794	71	2,831,097
1960-61	163,091	123,170	39,921	6,570	5,990	580	1,062	968	94	3,412,139
1961-62	169,897	129,237	40,660	8,480	7,669	811	1,365	1,229	136	3,412,653
1962-63	172,477	132,595	39,882	10,161	9,010	1,151	1,215	1,094	121	3,637,798
1963-64	163,729 ⁴	129,071 ⁴	34,658 ⁴	12,045	10,573	1,472	1,225	1,055	170	3,714,450
1964-65	165,782	130,121	35,661	14,388	12,391	1,997	1,363	1,244	119	4,025,075
1965-66	174,161	135,484	38,677	16,895 ³	14,254	2,641	1,491	1,338	153	4,312,965
<i>Regular Forces</i>										
1956-57	109,121	106,309	2,812	457	—	—	252	250	2	951,000
1957-58	115,014	112,226	2,788	1,019	1,018	1	227	226	1	825,100
1958-59	113,205	110,253	2,952	1,299	1,294	5	223	223	0	827,000
1959-60	114,094	110,826	3,268	1,634	1,630	4	229	229	0	848,100
1960-61	114,547	111,140	3,407	2,445	2,440	5	220	219	1	798,500
1961-62	121,977	118,681	3,296	3,461	3,454	7	252	248	4	886,900
1962-63	119,134	116,599	2,535	4,499	4,485	14	265	262	3	895,900
1963-64	115,915	114,086	1,829	5,875	5,859	16	248	248	0	909,000 ⁴
1964-65	109,303	107,891	1,412	7,865	7,836	29	236	233	3	953,500
1965-66	102,904	101,643	1,262	9,994	9,956	38	258	254	4	1,025,300

¹ Contributors in the Public Service or the Regular Forces.

² Contributors who have left the Public Service or Regular Forces and retained their Supplementary Death Benefit coverage.

³ During the year, 167 participants reduced their coverage to the \$500 paid-up death benefit.

⁴ Amended from 1963-64 Annual Report.

* Dash indicates figures not available.

TABLE 20
DEATH BENEFIT ACCOUNTS

CHANGES IN THE NUMBER OF DEATH BENEFIT PARTICIPANTS, APRIL 1, 1965 TO MARCH 31, 1966

	Public Service Death Benefit Account			Regular Forces Death Benefit Account		
	Males	Females	Total	Males	Females	Total
<i>Active Participants</i>						
Number of Active Participants, April 1, 1965.....	130,121	35,661	165,782	107,891	1,412	109,303
Additions.....	16,159	10,033	26,192	9,790	170	9,960
Deletions.....	10,796	7,017	17,813	16,038	321	16,359
Number of Active Participants, March 31, 1966.....	135,484	38,677	174,161	101,643	1,261	102,904
<i>Retired Participants</i>						
Number of Retired Participants, April 1, 1965.....	12,391	1,997	14,388	7,836	29	7,865
Additions						
On Annuities.....	2,487	725	3,212	2,522	9	2,531
Commercial Rate.....	41	16	57	26	1	27
Total.....	2,528	741	3,269	2,548	10	2,558
Deletions						
Death.....	642	89	731	73	0	73
Other.....	23	8	31	355	1	356
Total.....	665	97	762	428	1	429
Number of Retired Participants, March 31, 1966.....	14,254	2,641	16,895	9,956	38	9,994

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

No. 29

TUESDAY, FEBRUARY 14, 1967

Respecting ★
PENSIONS

APR - 5 1967 ★
UNIVERSITY OF TORONTO

WITNESSES:

Messrs. J. S. Forsyth, President, C. F. May, 1st Vice-President, F. W. Whitehouse, National Secretary-Treasurer, H. Lecours, President, Montreal Branch, Federal Superannuates National Association.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicou-
timi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, February 14, 1967.

(50)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.45 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Émard, Knowles, McCleave, Patterson, Richard, Walker (8).

In attendance: Messrs. J. S. Forsyth, President, C. F. Way, 1st Vice-President, F. G. O'Brien, 2nd Vice-President, F. W. Whitehouse, National Secretary-Treasurer, H. Lecours, President, Montreal Branch, Federal Superannuates National Association.

Moved by Mr. Émard, seconded by Mr. Walker,

Agreed,—That reasonable living and travelling expenses be paid to the President of the Montreal Branch of the Federal Superannuates National Association, who was called to appear before the Committee this day.

The Committee questioned the representatives of the Federal Superannuates National Association on their brief.

The Committee agreed to print the table displayed at page 12400 of Hansard, January 30, 1967, showing amounts of pensions paid retired civil servants as an appendix to the proceedings. (*See Appendix X*)

At 12.06 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, February 14, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Order. We have a quorum, gentlemen.

(Translation)

Mr. ÉMARD: Mr. Chairman, I have been informed that Mr. Lecours of Montreal is accompanying the delegation of Federal Superannuates this morning, I would like to suggest that his expenses be paid just as they are paid for the other representatives.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Is that agreed?

Some Hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Our first presentation this morning is from the Federal Superannuation National Association, represented by Mr. Forsyth and Mr. Whitehouse who are, respectively, its president and secretary-treasurer.

I hope that the Committee again realizes that we are not making a study in depth of the superannuation act at this time. That is not our mandate, and I hope that we will not go off on that tangent.

We are inquiring into the situation of superannuates, retired civil servants, or at least that was the intention of those who made the proposition in the House of Commons at the time, on the ground that many people who have been in the service are not at the present time receiving an adequate pension.

On the whole problem of superannuation, I am sure that at a later time, when collective bargaining is in effect and when the associations have taken root they will make the necessary representations if they feel that the whole structure should be revamped and handled in another way. That is not to say, of course, that we should not look at the superannuation fund and the workings of the act to find if there are any ways whereby our ends can be attained, but I hope that our deliberations will not be delayed. We will not attain our ends by going off on the tangent of getting into the structure of the superannuation act.

I would invite comments on this from other members of the Committee so that I will not have to repeat it.

Mr. KNOWLES: Well, I certainly agree with you, Mr. Chairman, that under our terms of reference the only area in which we can now make a recommendation would be on what can be done for those already retired.

I think it was helpful the other day that the officials took us into the act, so that we might understand. Certainly any recommendation that we make is within the limited area that you have described.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Now I will call on Mr. Whitehouse.

(Translation)

Mr. Whitehouse will present the Brief of the Federal Superannuates National Association.

(English)

MR. WHITEHOUSE (*Secretary-Treasurer, Federal Superannuates National Association*): Mr. Chairman, ladies and gentlemen, first of all I would like to express the very sincere appreciation of the association we represent, which is comprised solely of retired federal civil servants and retired personnel of the armed forces and RCMP.

I am glad, Mr. Chairman, that in your introductory remarks to the members of your Committee you made it very clear that you were dealing only with the problems of retired civil servants, because that is why we are here. That is the one subject that we are interested in. We cover in our brief why we think that some serious thought and consideration, and, we hope, favourable decision, will be made in the interests of literally thousands of retired federal civil servants and the widows of retired federal civil servants.

I do not think I am stretching the truth too much when I say that we have been endeavouring for 20 years now to try to convince our former employer, the Canadian government, that something should be done. It is not something unique that we are asking. Other countries all over the world, including Great Britain, the United States of America, Australia, New Zealand and countries on the continent recognized this responsibility some years ago and implemented upward adjustments in the pensions of their retired people. We do not have to go any farther afield than our country. Several provinces of the Dominion of Canada have already done this. Quite recently the province of Ontario, has announced, through the Provincial Treasurer, that retired personalities of the province of Ontario would receive an upward adjustment in pensions effective January 1 of this year (1967). Many large corporations across the country have also seen fit to do this. Therefore, Mr. Chairman, we are not, as I say, asking for anything unique. We are simply asking that our former employer, the Canadian government, recognize its obligation to its retired employees, and, we hope, do something about it.

With your indulgence, Mr. Chairman, I would now like to read the brief.

This brief is to the joint chairmen and members of the joint committee of the senate and of the house of commons on the public service of Canada. This brief has been prepared and is presented by the Federal Superannuates National Association. It is applicable to members of the association and to all other persons now in receipt of pensions under the Public Service Superannuation Act.

The association has members who have established branches in every province of Canada. Due to lack of cooperation by the government authorities, the recruitment of members has been seriously impeded. We believe that all persons receiving pensions should have their case fully and carefully considered. If this is done we are satisfied that the merit of their claim will be recognized.

The Public Service Superannuation Act was first enacted in 1924. It replaced a retirement plan and employees participating in this were permitted to elect to come under the new superannuation act, and all but a very few did so. The scheme established under the 1924 legislation was similar to the present one, the chief difference being that the pension was first based on the average salary of

the last five years of employment, later changed to 10 years, and in 1960 to the present basis of the average of any selected 6 consecutive years.

A pension has been defined as a "reward for services rendered to an employer? A Scottish judge once called it "a payment to a servant who deserved well of his master". This is in the olden days I assume. A true pension is therefore provided solely by the employer. When the plan is contributory, and the employees contribute, either voluntarily or compulsory, such contributions cannot be considered as a reward for service rendered, but are in fact personal savings.

The contribution of personal savings to the superannuation fund is done upon a reasonable assumption that such savings will be applied in a manner best suited to accomplish its purpose. This purpose is to provide the maximum benefit in the form of pension payments. The only way this can be done is by investing the fund to produce the maximum return. As the funds are deposited in the superannuation account, the interest accrued is the rate by which the actuary valued the fund. This rate is always 1 to 2 per cent centage points below the current yield of first class securities. The effect of using a lower rate is to create a hidden reserve which in the case of a fund guaranteed by the government is absurd. By contrast, when valuing a private pension fund, the actuary uses a rate more nearly approximating the actual yield. The effect of this is to lower the cost of the pension.

There is no good reason for not valuing the superannuation fund at an interest rate closer to the actual prevailing rate. While this will not eliminate the book deficit due to the failure of the government to contribute its full share of the cost and interest on the funds, it can and should provide the means for bettering the pension benefit. If this were not done by private trustees, they could be held to be negligent, and suffer accordingly. Employees contribute 40 per cent of the cost of the pension, and in a fund of two billion dollars, this share would be \$800,000,000. It is obvious that the loss of a true interest return is considerable.

The problem of the present generation of pensioners is inflation. Efforts by the government to promote full employment by the use of fiscal and monetary policies have created an expectation (presently fully realised) that price levels will creep upwards. Other benefits now being provided for employees, such as hospital insurance, are paid for currently and are therefore not affected by inflation. Pensions are a notable exception. A price rise of 2 per cent per year reduces the real value of a pension by one third in twenty years. The current wages may be expected to increase proportionately over the same period owing to the continuing improvements in production, the accumulation of capital and the successful result of government policies. The effect is that the government, when it retires a civil servant with a pension, pursues a policy that if successful will result in a serious reduction in the real value of every pension.

The use of a terminal earning base for determining the amount of pension has been said to provide a hedge against inflation. This concept may have had merit in a period of a fluctuating economy. It does not apply under the present condition of a continuously rising economy for which the government is not modest for claiming credit. It is assumed in the absence of other criteria that the change of base of determining pensions from 10 years to 6 years was due to the continuously rising economy and general prosperity; but it is the efforts of the preceding generation that have created the productivity and prosperity of the

present generation, but only the latter derive any benefit from it. This problem will become increasingly more pressing as increasing wealth in the community makes early retirement more prevalent. The proper answer and the only answer is escalation of the pension.

The actual report of December 31, 1962, made to the Minister in accordance with section 33 of the Public Service Superannuation Act contains a statement of interest at the bottom of page 10. This statement reads:

"There are two main forces that tend to generate increases in the salary of an individual during his working life. The first may be thought of as a 'promotional' force. As an employee gains experience and attains new or higher skills in his work, he is normally rewarded by periodic increases in his salary. Such increases are hereinafter referred to as a 'promotional' increase. The second force is the result of the diverse forces that produce increases in the level of salaries generally or for certain classes of employees only. Increases in salary resulting from this force are hereinafter referred to as 'economic' increases."

I may say, Mr. Chairman, that my national president, who will be answering the questions after the reading of the brief, would like to add a further paragraph to this from a report recently put out.

Accordingly, the actuary has adopted an average rate of 3 per cent of salary increases as arising from "economic" forces. The combined "promotional" and "economic" increases are in the area of 5 per cent of salaries every year. In effect this is escalation clause similar to what this association is asking in respect of pensions. Certainly, economic changes have effect whom both employees and retired pensioners. The distinction is that retired pensioners do not get the relief given to the present employees.

The adoption in 1960 of a selected 6 year's salary as a base for determining pensions has cost, according to the actuarial reports, some \$31,000,000. At that time the number of contributors employed in the civil service was 179,587. The number of persons receiving a pension, excluding 2,565 children but including 11,443 widows, was 27,318, or about 15 per cent of the contributors. On the same ratio the cost of giving pensioners the benefit of the six year average would be 4.6 million dollars, a small amount in comparison to the saving made by the inclusion of the Canada Pension Plan as part of future pensions.

The increases in pension payments authorized in 1958 were applicable only to superannuates retired prior to 1953. Their pensions were based on the 10 year average and would include the war years. Salaries were frozen during the war as part of the war effort. Superannuates eligible for the 1958 increases did, and if still alive are still carrying part of the war effort. The other victims of the war—the disabled veterans—are now receiving appropriate and well deserved increased pensions.

The dollars paid by the present superannuates during their period of service are now being returned to them. But due to economic changes these dollars have been so eroded that in purchasing power they are only a fraction of those dollars paid in. It is this condition that should be corrected.

If a pension plan is viewed objectively as an instrument devised for a certain purpose, the attainment of that purpose should be of paramount impor-

tance. Very substantial changes have been made in past years to accomplish this. Some of the changes are:

- (a) elimination of any provision depriving the employee of a return of his own contribution if he leaves the employment prior to attaining retirement age;
- (b) elimination of the provision to deprive a pensioner of his pension if he is convicted of any offence, (thereby making the pension plan a supplement to the criminal code);
- (c) vesting of full pension benefits after a minimum period of service;
- (d) making the pension fully portable.

Adopting an escalator clause is following the lead of countries such as England, the United States, Australia and others, and also the provincial governments of British Columbia, Nova Scotia, Saskatchewan and Newfoundland; and since we have prepared this brief, as I stated in my opening remarks, the province of Ontario has also done this. In this country an automatic escalation clause is in the Canada pension plan. Labour unions presently negotiating for increased pensions require such increases to be paid of retired pensioners. This has been recognized by the government, by legislation permitting such payments to the former employees to be deducted for income tax purposes, although it is difficult to appreciate that the increase in such payments is an expense of earning the income for that year.

The purpose of a pension plan is to provide for employees upon their retirement. If the income is insufficient for minimum needs then the purpose is not accomplished. When this arises from the adoption and incidence of government fiscal on monetary policies, then common justice demands that the erosion of pensions be remedied.

For the reason above stated, we ask the following:

1. That pensions be increased to bring them in line with the present cost of living, keeping in mind the devaluation of the purchasing power of the dollar since pensions were granted.
2. The enactment of a statutory escalatory clause in the Public Service Superannuation Act to provide for automatic increases in all pensions paid under the Act and geared to the Consumers' Price Index.
3. Where a pensioner dies leaving a widow, the continuation of the full pension to the widow for one year and 75 per cent of the original pension thereafter.
4. The recalculation of all presently living pensioners of their pensions on the six year average basis.

The effect of government policy has been increased salaries, increased wages and increased prices. These are the incidents of a rising economy. One of the other incidents is the hardship imposed on people with fixed income, of whom pensioners are a large part. Surely out of the benefits which the policies pursued have created, some remedy is available to the unfortunate ones who cannot share in this prosperity.

We recognize fully the government's difficulties in trying to combat the spectre of inflation. It is nevertheless evident that in one way or another every stratum of Canadian society is striving to secure an increased income to counteract the rising cost of living. This is being achieved in many cases by agree-

ment; in other cases strike action is being used or threatened; in two cases at least—those of veterans' pensions and old age pensions—the government has voluntarily recognized the need. In one case only—that of former government employees—has nothing been done or proposed. Surely the mere recapitulation of these facts should be sufficient to bring speedy remedial action.

All of which is respectfully submitted on behalf of the members of the Federal Superannuates National Association.

I would like to add in closing, sir, that those of us who have taken up the work of trying to help our former colleagues in the civil service are doing so gratuitously. We are giving of whatever services we have, and of the experience we have gained while working in the federal civil service and in the organized part of the federal civil service. Thank God, those of us who are doing this do not need an increase in our pensions; we have provided for other sources. We are not asking for something for ourselves. We are simply asking that justice be done to the literally thousands of retired civil servants in this country and the widows of retired civil servants.

We do hope, sir, that this committee—and I am sure it will—gives to this question the serious consideration that it deserves; and we dare hope, even though it is St. Valentine's day, that perhaps we will receive something in the way of a valentine and that a favourable recommendation will go forth to parliament on behalf of the thousands of retired civil servants. Again we hope and pray, if this recommendation is forthcoming, that parliament will see fit to approve it.

Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Whitehouse. The members of this committee know very well the history of your service on behalf of civil servants and now on behalf of the superannuates. I am glad that you have come on St. Valentine's day to remind us that this is a time to express by deeds our affection for the superannuates.

Are there any questions?

Mr. WHITEHOUSE: As I said, my national president, Mr. Forsyth, has agreed to take on the responsibility of answering the questions that might be forthcoming and if you will pardon my saying so I do not think that we have in Canada a better man than Mr. Forsyth to answer any questions that you might ask.

The JOINT CHAIRMAN (*Mr. Richard*): Step forward, Mr. Forsyth. Senator MacKenzie?

Senator MACKENZIE: Just one question: you have made mention of the desirability of achieving something equivalent to the necessary cost of living. Have you any indication of what that figure would be, sir?

Mr. FORSYTH: I know what we would all like to have. Of course, the cost of living varies on different items.

Senator MACKENZIE: I was wondering if you could give us a global figure?

Mr. FORSYTH: Not a global figure; a national figure.

Senator MACKENZIE: Well, that is what I mean—global in the national sense.

Mr. FORSYTH: Well, an increase of \$50 a month in a pension would adequately cover the increase in food and shelter since 1949. That is an approximate statement; but food and shelter are the main elements of—

Senator MACKENZIE: If everybody in the group that you are asking us to help get an additional fifty dollars a month it would bring them up to par for the course?

Mr. FORSYTH: That is correct. Now, I saw a lump sum rather than a percentage because the percentage operates adversely—

Senator MACKENZIE: Where the people need it most?

Mr. FORSYTH: That is correct. For instance, a \$50 a month increase for a man who is getting \$200 means a 25 per cent increase; for a man who is getting \$500 it is a 10 per cent increase; for a man who is getting \$1,000 it is a 5 per cent increase; so it is more equitable and accomplishes the purpose.

Senator MACKENZIE: This I would support.

The JOINT CHAIRMAN (Mr. Richard): Mr. Knowles, have you any questions?

Mr. KNOWLES: I did not have my hand out, but I take it that you assume that I have some questions.

Mr. Forsyth, may I ask you a question or two about your brief? In parts of it you seem to be suggesting ways in which the money could be found. For example, you refer to the possibility of a higher interest rate, and one or two other things of that kind; then in other sections you suggest a formula or two that might be pursued, such as recalculating all pensions on a six year basis, and or one or two other ways. I also feel that running through your brief is the theme that justice demands that something be done.

My question is this: Is your claim tied to these suggestions about how it could be done, or do you feel rather that this is simply a matter of ordinary justice and fair play and that we should do it whether the money is there or not?

Mr. FORSYTH: I agree with the theme that it is only ordinary justice that there should be a means of bringing these pensions up in accordance with the increased cost of living, and those are the two main items—food and shelter. Those other suggestions I made would have an appeal to an industrial employer as offering a means by which they could get the benefit at the lowest cost. In the case of the government, of course, as they do it, they are not always looking for the lowest cost. They are looking for something to be done.

Therefore, I would suggest that on the financial question there is a remedy within the fund itself, rather than calling upon outside funds to supplement it.

Mr. KNOWLES: The reason for my question—and you will not be surprised—is that we have had the officials before us and they have cast some doubt on the possibility of doing this by finding the money in the fund, or by raising the interest rate. You will see that when you get the evidence of a previous meeting.

I think there is a disposition in the mind of the committee that they feel that something should be done, and, quite frankly, I like the parts of your brief that

say that, rather than the parts of your brief which seem to suggest that there is an easy answer to it.

Mr. FORSYTH: Well, Mr. Knowles, these contributions by the individuals are personal savings. You cannot buy a pension for yourself. You can buy an annuity. If a pension is a reward for services you certainly cannot render services to yourself. That money is in the nature of trust money, and it should be dealt with accordingly. It should accomplish its purpose in the most suitable way.

Mr. KNOWLES: I am not the one to argue that with you, Mr. Forsyth.

Let me come back to the relationship between this questioning and the question that Senator MacKenzie asked. Would a recalculation of pensions on the basis of a higher interest rate, or on the basis of the six year average for everyone, meet the need as much as a straight flat increase?

Mr. FORSYTH: It would not. All that would happen on a recalculation is that the lower pensions would get a percentage increase which is not sufficient. There is no use in giving a ten per cent increase to a man with a \$50-a-month pension. That is not going to help him at all. A man with \$500 could probably use 10 per cent because that would be the equivalent of what the rise in cost of living on shelter and food has been; so that he would be fully protected. It is the people with pensions under \$200 and \$300 that we are concerned with. They should get the relief.

Mr. KNOWLES: You would prefer a flat increase, or at least an increase scaled to the advantage of those in the lower groups, rather than a percentage increase?

Mr. FORSYTH: That is right. I am very much in favour of the flat increase.

Mr. KNOWLES: You ask for an increase in the widow's pension from the present 50 per cent to 75 per cent. Would this be apart from the flat increase in the pension?

Mr. FORSYTH: No; if you are going to put on a flat increase I do not see that it is necessary, because this is going to bring the pension up to equal the cost of living. The pension that a widow gets is the one that was understood and agreed would be paid to her. Now, supposing her husband had a \$200 pension and she is getting \$100. If she gets \$150 then there is no reason why that should not compensate for the cost of living, because she is geared to a pension of \$100; and, besides, I find it a little difficult to think that all widows are suffering. As a matter of fact, it was not so long ago that the biggest cash incomes in the country were received by widows. All of them do not need relief. But a pension of \$100 a month is insufficient, certainly in terms of the dollars with which it was purchased; it should be brought to real buying power.

Mr. KNOWLES: I am still a little puzzled, Mr. Forsyth, that you advocate a flat \$50 increase for pensioners themselves, but settle for what is, in effect, a percentage increase for widows. You cite an example of a widow with \$100 a month. If you change her basis from 50 to 75 per cent you have given her \$50, but there are 1,598 widows with pensions of less than \$20 a month.

Mr. FORSYTH: Well, that is what I say. There are so many solutions, or at least so many remedies. What is the best one? You do not know. It was done on a

percentage basis in 1958. I benefited by that. I think I got an increase of \$40 a year, it did not substantially affect my standard of living, but it was there. As a matter of fact it was more of an insult than a tribute to get it.

If you make a lump sum payment—and we suggest a minimum of \$50—then you are correcting the evil that is most frowned on, and that is the lower paid pensioners; and that is the only thing that we are interested in. I am not interested in a man who is getting \$500 or \$1,000 a month pension; he can look after himself. Take the girls that worked in the government before and during the war, and who retired in the early 50's. Very few of them ever got \$3,000. Now they are at the maximum pension level of less than \$2,000 and they are finding it a very difficult time.

The same thing happened with the school teachers in Ontario. The school teachers who were paid in hundreds—where now they are paid in thousands—are destitute. Had it not been for the old age security payments they would have starved. Now they have done something about it. They are giving these people a bonus.

Mr. KNOWLES: Stop me, Mr. Chairman, if any others seek to put questions.

Would you establish any relationship between what should be done and the length of service, and also between that and the time at which a person left the civil service? I have in mind the fact that people who retired many years ago even with long service suffered difficulties, and on the other hand some people with very short service are in these categories.

Mr. FORSYTH: Well, Mr. Knowles, you can make a formula as complicated as you like. I like a simple formula. Under the superannuation act a man cannot have a pension unless he has had 10 years' service. I am certain that a lump sum payment to everyone, irrespective of service and irrespective of the amount of the pension, would correct the evil that we have here.

Mr. KNOWLES: I am satisfied, Mr. Chairman. We rest right where Senator MacKenzie started that the delegation would like a straight, flat increase. They do not want any complicated formula.

Senator MacKENZIE: Has anyone any idea of what the total of the \$50 increase would amount to?

Mr. FORSYTH: Well, I think it would come to about \$17,000,000 a year.

Mr. WALKER: What cut-off point are you talking about? Is this for everybody, or—

Mr. FORSYTH: I do not think that that bonus is necessary for those people who have been pensioned off since 1960 on the 6 year basis. There is no particular need there. That would be my cut-off.

Mr. WALKER: And you do not relate it to the amount of pension that a person has?

Mr. FORSYTH: No.

Now, perhaps I should point out that I am making assertions, or statements, based on very, very little knowledge of the actual facts surrounding this. I am just offering an over-all remedy—

An hon. MEMBER: A philosophy?

Mr. FORSYTH: That is right.

(Translation)

The JOINT CHAIRMAN (Mr. Richard): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, I was interested by a few remarks in this Brief and would have a few comments to make. On Page 1 for instance: "Due to lack of co-operation by the Government authorities the recruitment of members has been seriously impeded". Could this be explained, exactly what does it mean?

(English)

Mr. FORSYTH: You wish to know about the lack of co-operation with the government authorities. Well, we went to the government and asked them if they would give us the lists of the names and addresses of all retired civil servants. Now, quite properly, I think, they refused to do that, because such a list is a very dangerous thing to pass around. We then suggested that we would provide a slip of paper which could be inserted in the pension envelope to let them know what we were doing. In other words, we were advertising that we were in existence and that we would like to have their support and help in this particular purpose.

An hon. MEMBER: What dues do your members pay?

Mr. FORSYTH: Three dollars a year.

(Translation)

Mr. ÉMARD: Then, a little further: "We believe that all persons receiving pensions should have their case fully and carefully considered. If this is done we are satisfied that the merit of their claim will be recognized". I was thinking, would this particular task not be up to your Association, to demonstrate the merit of your members' claims? In your Brief, there is very very little explanation. I would like to know the number of your members as compared with the number of pensioners; I would like to have details as to the people, the services rendered by people who are drawing \$30, \$40, \$50 and \$100 per month, and so on. I would think that it would be up to your Association to give us these details. If you do not do it, who will?

Mr. LECOURS: What I would like to say is that if you refer to *Hansard* for last month you will find the figures you mention.

(English)

The JOINT CHAIRMAN (Mr. Richard): Mr. Knowles, do you not have the last *Hansard* reference—the requests and things like that?

Mr. KNOWLES: Here it is.

(Translation)

Mr. ÉMARD: If you refer to last month's *Hansard*, I have it here. We will come back on this, we will have the occasion to discuss this a little later on, but I think you might have given us more detailed information with regard to your members.

You have here a Brief which speaks in general terms of what you would like to have, but what tells us that your members really deserve what you are asking?

Mr. LECOURS: I think elementary justice requires that the needs of federal government pensioners be recognized. The figures published here speak for themselves. Personally, just as Mr. Forsyth was saying and as Mr. Whitehouse said a little while ago, we are not asking for anything for ourselves for various reasons. On the other hand, these figures are self-explanatory. When you think that there are widows of pensioners who receive less than \$20 per year, even if they have a \$75 Old Age Security pension, it still is not sufficient to allow them to live at the economic level which should be theirs. In other words, they have to make sacrifices because they do not have sufficient income to continue living as they were used to, living before their husbands died. Honestly, I do not quite understand the meaning of your question.

Mr. ÉMARD: Perhaps it is not clear. You are saying that justice requires that pensioners are well paid. I am in complete agreement with you on this, but prove to us that your pensioners are poorly paid. Give us concrete facts. We will discuss this in a little while, and the figures given in your Brief.

I will continue reading it if you do not mind. I need some clarification not that I am in disagreement, I am in complete agreement that pensioners certainly deserve an increase. I am in agreement that pension funds, and not only this one, the Superannuation Fund, do not treat pensioners equitably after a certain time. All types of pensions in industry are the same. I am thinking to what applies more particularly to government pensioners. We should have more information if we want to reach the decisions that are required in this respect.

But to continue with the Brief, at the bottom of the page, it is said that a pension fund is not a gift. To prove that I am in complete agreement with you I would like to read a statement which appeared in the American Labour Federation Bulletin in 1954 which is quite applicable to the Pension fund. It is in English.

(English)

The pension plan is not a conditional or discretionary gift by the employer, but a deferred wage earned by current labour services.

(Translation)

I am in complete agreement with this. I think that everyone else will agree too which puts us in a different perspective, because in reality it is a wage. Now, what I would like to know from the remarks that you made a while ago, on Page 2 of your Brief, in the second paragraph, you say: "While this will not eliminate the book deficit due to the failure of the Government to contribute its full share of the cost, and interest on the Funds, it can and should provide the means for bettering the pension benefit". At the beginning of the paragraph you say: "There is no good reason for not valuing the Superannuation Fund at an interest rate closer to the actual prevailing rate". I would like to know exactly what you mean by: "While this will not eliminate the book deficit due to the failure of the Government to contribute its full share". As you say, "the failure of the Government to contribute its full share of the cost", and a little later on you say: "Employees contribute 40 per cent of the cost of the pension". Are you saying here that Government participation is 60 per cent? This is what I understand. If employees contribute 40 per cent, then the Government share would be 60 per cent. Why then do you speak of the "failure of the Government to contribute"?

Mr. LECOURS: Personally, sir, I regret to have to admit that I only read the Brief this morning, and very rapidly. I was going to raise this question myself with my colleagues but I was unable to. What happened is that I received the notice of the meeting last evening at five-thirty in Montreal. It had been mailed from here on Friday. I was precisely going to raise this question because, frankly, it is a little ambiguous. It is rather difficult to understand, and as you say, it is contradictory. For the time being, however, if you will allow me, could ask Mr. Forsyth or Mr. Whitehouse to answer you in English on this?

(English)

Senator MACKENZIE: Mr. Chairman, may I make a comment on this? I am not sure that we should get into the philosophy, or the feasibility, or wisdom, of the actuarial decisions. I think you can argue both ways on this. I would be happier if we did not spent too much time on that paragraph which was inserted here, and which Mr. Émard has raised—and raised quite properly—because this is something that will have to be argued with the actuaries. I am not in a position to say whether the funds are invested wisely or unwisely.

(Translation)

Mr. ÉMARD: Mr. Chairman, I intend to use these arguments against the actuary a little later on, that is why I want to have some explanations.

(English)

The JOINT CHAIRMAN (Mr. Richard): There is a simple explanation. I am not sure of it myself, but in my mind the reason for the discrepancy between the 60 and 40 is the amount that the government contributes from time to time to balance the periodical increases in salaries. That makes the 60-40. It is not because the contributions otherwise are not equal, but that in the fund itself there are more contributions from the government, in the sense that they have to put in lump sums at different times to adjust the fund to the increases in salaries. Is that right?

Mr. FORSYTH: That is correct. The cardinal average basis for computing pensions is always going to raise a pay deficit every time there is an across-the-board increase; and that is a very substantial amount, because that has got to go back and pay for years of service from the time of the start of employment.

Now, the actuary here puts in a deficit of \$499,000,000 which is quite a lot of dollars, but the superannuation fund is not a bond, it is a liability of the government, and the government will meet its liability as it falls due. We have had unfortunately a great deal of difficulty in convincing our members that there is no fund. They think that the money they put in down there in a safety deposit box, or somewhere, earning interest. It is not. And certainly the 4 per cent interest rate that the actuary uses is just something that they use because they have got to use something to evaluate it.

Senator MACKENZIE: These are up and down figures—

Mr. FORSYTH: That is correct.

Senator MACKENZIE: —and that is an average figure?

Mr. FORSYTH: I am not concerned; but our members are so obsessed with the fund idea that you have not put something in there to meet their wishes. I do not think that it means anything.

(Translation)

Mr. ÉMARD: What I do not understand is, why you speak in the Brief, of the "failure of the Government to contribute its full share". If we judge by industry participation in several funds, it is a 50-50 participation. I think that a 50-50 participation is normal and wonder why a 60-40 participation is considered insufficient. That is what I would like to know.

(English)

Mr. FORSYTH: Well, it is adequate if they actually contribute it.

Mr. ÉMARD: You are not suggesting that the contribution, of course, from the government side is not adequate? They are giving 60 percent—

Mr. LECOURS: Do they not regularly contribute to this fund on the basis of present-day figures?

Mr. FORSYTH: Not necessarily; they put in lump sums from time to time.

Mr. LECOURS: I would like to know what proof we have that the government is not paying its regular share.

Mr. FORSYTH: There is a statement published every year on the fund.

Mr. KNOWLES: Mr. Chairman, I wonder if the key to this is not in the statement Mr. Émard read and with which I agree—that a pension is a deferred wage. Now, if that is the case, and everybody else has the chance to have his wages increased, why should not these deferred wages be increased?

Mr. FORSYTH: I agree.

Mr. KNOWLES: I know you agree with me; but is not that the moral justification for what we are doing rather than trying to find it in the fund. Everybody else whose living costs and living standards go up gets a chance to increase his wages. These pensioners who are on a deferred wages have them frozen. Is not that the moral justification that you are—

The JOINT CHAIRMAN (Mr. Richard): Mr. Knowles, if I may interrupt, I think that what Mr. Émard has been saying, is being repeated. I think we could leave it there, that he objects more to the statement that the contributions of the government are insufficient. He does not object, as I think he stated, to the suggestion that the pensions should be increased, but he says that it should not be blamed on the lack of contributions by the government. Is that not it, Mr. Émard?

(Translation)

Mr. ÉMARD: Once again, I would like to make my position very clear. I agree completely, that civil servants' pensions should be increased. But I would like to use the arguments that you are bringing forth in discussion with Government actuaries and officials, because I am not too well informed about pension plans. I, therefore, need the arguments you are presenting for the Government officials in arguing that your pensions be increased. What I want are explanations and when I see a remark such as "failure of the Government to contribute its full share" I would like to have an explanation. When I say something and people do not understand me they will ask me for explanations so I am asking why you are saying such a thing?

Mr. LECOURS: I think that Mr. Émard is being the devil's advocate in this matter, for which my colleagues and myself are most appreciative.

Senator DENIS: The devil's advocate! 60-40 seems reasonable to me.

Mr. LECOURS: What I am saying is that Mr. Émard is trying to help us present something concrete, to say something very precise and personally I am sure that my colleagues appreciate this, because, after all, we are amateurs in this, not professionals. We have to use the figures which are submitted to us without knowing where they come from, without knowing whether they are accurate, without knowing their objective. When we see 13,000 widows and pensioners who do not even get a pension of \$100 per month this is what strikes us. I appreciate the question you are asking, because it will enable us to reply adequately in the future. We will certainly study your questions in Committee so as to be able to give you adequate and sensible answers.

Senator DENIS: Mr. Émard wants to know whether or not you were deliberately discourteous?

Mr. LECOURS: I do not think there was any question of rudeness, but perhaps a faulty expression was used.

Mr. Émard asked how many members we had. Without knowing for sure, because it is the beginning of the year and our people have not all sent in their dues. In Montreal 140 gave me \$3.00; I give \$2.00 to the National Organization. I think that from one end of the country to the other, there are between 2,000 and 2,500 members at the present time, but the maximum number, if I am not mistaken was 3,000, two years ago. Last year, however, our members did not subscribe saying, "What did you do for us, we did not receive any pension increase. Why then should we give you \$3. We would rather spend the \$3. on something else". In some cases, \$3. is a very substantial amount for a pensioner who only receives \$20. per month.

What happened then? I sent notices out; of 134 who were delinquent last year, 47 paid. And this year, I sent out 550 notices of meetings and requests for dues. To date, I have received about 140 replies. We hope to be able to reach the 3,000 of two years ago, but unfortunately, (I do not know whether I should say this or not—it will give them an idea), this year they will say: "Why should we pay, we are going to get an increase anyway. You went to Ottawa and they are willing to study our needs". So you see the position in which we find ourselves. That is why I appreciate what Mr. Emard is doing.

Mr. ÉMARD: On Page 2, a little bit further, you say that the problem of the present generation of pensioners is inflation and you elaborate a little on this. I would like to say, as I did a little while ago, this problem is not peculiar to the superannuation fund. It is a problem that we find everywhere, throughout industry; it is a problem which I have had the opportunity of discussing in negotiations for a great many years. A solution will certainly have to be found. Now, is the solution you are suggesting the ideal one? I do not know. I think however everyone agrees that this problem does exist not only for the Government but for everybody. And even when there is not too much inflation there is always an increase in the standard of living, there is a general increase for employees either in industry or business or government. The pension drawn by a retired person may be sufficient at the time he retires,

but if he is lucky enough or unfortunate enough to live ten more years then the pension is no longer what it should be.

Mr. LECOURS: Can I interrupt you one moment? Everything you are saying is completely through and confirms our position, our requests. You will note that only insurance policies and pensions do not fluctuate with the cost of living. In France, since the First World War, the Government has been asking about 60 per cent of the individual's income. So take a widow who has an income of, let us say, 12,000 francs; she had only about 5,000 left to live on. Here in Canada, it is the same thing. For those who paid for insurance when the dollar was worth 100 cents, will draw a dollar which is worth from 40 to 50 cents from a purchasing point of view. That is our concern, that is what we want to have corrected.

I also draw your attention to a sentence here. "Everyone in industry and Government have received wage increases which compensated somewhat for the cost of living." Everyone, that is, except pensioners, retired federal civil servants. Everyone received an increase, but us. Was this done purposely? I know it is not with the intention of being unjust, but was there not a little bit of negligence, a little bit of apathy, a little bit of, well, it is not my business, on the part of some people in Government. When we say Government, we mean the high officials, who are, after all, the advisers to the Members of Parliament, the Senators and the Cabinet. For over 20 years, we have been trying to obtain something besides this very small increase which was voted to those pensioned prior to 1953. We have had nothing. Since 1953 there have been four or five wage increases for civil servants and the armed forces. In other words, everybody has profited from the rising economy except us—the pensioners of the Federal Government.

The JOINT CHAIRMAN: You not only include the pensioners of the Federal Government, but all others in industry and so on?

Mr. LECOURS: Mr. Emard mentioned the others. Our only concern is for the federal civil servants who are retired.

Mr. ÉMARD: I refer to Page 2 at the bottom of the page where it says: "A price rise of 2 per cent per year, reduces the real value of pensions by 1/3 in twenty years". This is a mathematical aspect that I do not understand. A price rise of 2 per cent per year, reduces the real value of a pension by one third in twenty years.

Mr. LECOURS: Not being actuaries, Mr. Emard, as I said a little while ago, we have to use approximate figures. But if you calculate 2 per cent per year, with compound interest, you will see that 1/3 is quickly reached.

Senator BOURGET: It is more than reached, it is over run.

Mr. LECOURS: We are not accountants, we are not actuaries, we are not professionals, therefore, we use the means at our disposal. You will, therefore, have to take this fact into consideration in judging our presentation which might perhaps be faulty in form, but not in intent.

Mr. ÉMARD: On Page 3 one reads: "During a man's active life, there are two main factors that raise his remuneration." Now this is important because it sets a

figure of 5 per cent. A little further there is a paragraph to which I would like to refer: "As the experience of an employee increases, he generally has periodic increases." Perhaps I do not understand correctly, but I would take it to mean that these periodic increases only apply to a definite period of time. When the employee has reached the maximum of his wage scale, these periodic increases stop; if he were to continue the same work for twenty years, he would receive no other periodic increases, unless he is promoted to a higher position. When an employee goes from grade 3 to grade 4, there is a wage scale according to which every six months his wages will increase from \$4,500 to \$5,000; so every six months, for two years, he will receive a certain amount, and then at the end of the year his salary will then be at \$5,000. Now, if that is what you mean by periodic increases, it means that this lasts only for a certain length of time. If you mean promotions, well, then it is a different story. I would like to know if you really understand the same thing as I do by "periodic increases", or do you mean when an employee is "promoted from one job to another".

Mr. LECOURS: Personally, I would call these increases, statutory increases. The cost of living is compensated for by general salary increases, these are two different things. Statutory increases, and the general wage increases, obtained by some sort of pressure.

Mr. ÉMARD: In other words, this is exactly what I thought. And now at the bottom of Page 3, you say that "Consequently, actuaries consider that a 3 percent increase is caused by economic factors"; they are periodic increases but they do not apply every year for 20 years in a row. It is only for one or two years. I do not think that it would be such a good idea for you to use this to obtain this figure of 5 percent. You say a little further "The combined promotions and economic increases" represent approximately 5 percent of salaries every year. Indeed, this is an escalation clause similar to what this Association is asking in respect of pensions". I think it would be a good idea to revise the basis of the 5 percent figure you are asking for.

Mr. LECOURS: Unless I am mistaken, Mr. Émard, we are not asking for an increase of 5 percent. Mr. Forsyth, a little while ago, specified a figure of \$50. Now for purposes of study, once again, I repeat, the figures we are using are approximations based on the statistics published by the Government over several years. Once again, we are not professionals in this particular field. Does this satisfy you?

Mr. ÉMARD: Yes. I would like to refer to the answer given to Mr. Knowles, published in Hansard on January 30th, 1967. One reads: "Pensioned civil servants, widows of pensioners receive less than \$20 per month \$30 and so on." I was surprised to see that retired pensioners were receiving less than twenty dollars per month. This is disgusting. If we can rely on these figures that say some people are only getting \$20 per month and that there are 13,000 pensioners and pensioners' widows that are receiving less than \$100 per month. Last week I listened to a Brief presented by Government officials, I do not know exactly what they represented. We were told that the Government was paying a pension after 5 years' service. This changes the story completely. In industry, it is rather rare that a pension is paid to employees who have less than 20 years service, except for disability pensions which are paid for any length of service. The retirement or service pensions are paid after a minimum of 20 years. I have heard comments

on radio and television to the effect that the Government was paying pensions of \$20, \$30 and \$40 per month to its retired civil servants. I think it is bad to allow propaganda of this sort to continue and to state half truths. This leaves in the minds of the people the feeling that the Government is paying \$20, \$30 or \$40 in pensions to employees who have completed 25, 30, and 45 years of service. If you consider the cases in the Brief which was submitted to us last week, then you will see that those who are drawing \$20, \$30 and \$40 per month are precisely the employees who served the government, often, less than 10 years.

I think that it gives a false impression to the public in general, because on this point the Government plan is certainly superior to any other plan that I know of in industry. In industry, I think that the best plan at the present time, is that of the United Auto Workers who are entitled to a pension after ten years' service, if I am well informed. I do not have the latest results of their negotiations, but I know that the U.A.W. plan, however, was one of the best. They started paying a pension after ten years' of service. And here you have people coming to work for the Government for a period of only five years. So, the Government has a pension plan which is much more superior, because the Government plan in some aspects, is superior. How superior it really is, remains to be discussed. Some provisions, I consider inferior, and others, I consider superior.

For example, I think that the stopping of the compilation of pensions after 35 years service, should be corrected. There is no reason why a person working 40 or 45 years for the Government, should not be paid on a basis of 40 or 45 years, it is discriminatory. I think we ought to talk about this a little later on, however, there are provisions which are superior to what is offered elsewhere. I do not want to go over all of them, but one of them in particular, is the fact that the Government consents to a pension after five years of service. This is superior but not only has the Government consented to do this, but whereas if you work in industry, where there is a pension plan, for instance if you worked for the C.N. or the C.P.—I worked there and I know—for five years and leave your job or are laid off, you are not handed your pension fund contributions and go home. You get nothing. This was, of course, before we had the portable pension schemes, but with the Government you could work the five years and at the end of five years, you are entitled to a deferred pension, which means that when you reach the age of 60, the Government will pay you a pension. Naturally, the Government will pay you a pension based on the five years of service. It would be dishonest on its part, and discriminatory for the Government to give you a pension which was equal to that of one who had worked for 20 years, if you only worked 5 years. But I am thinking, however, of this Brief and the comments heard over radio, television and the press, that 13,000 government persons, are not receiving \$100 per month. I think that when these statements are made it should be added, for instance, that the Government service in a great many cases, is less than 10 years, which gives a completely different image of the Government Pension Plan. I am not here to defend the Government's Pension Plan, but I think that justice should be done however. If there are good things, let us say so, if there are bad things, let us say so, and then we can correct the ones that are bad.

The JOINT-CHAIRMAN: Any more questions, Mr. Émard.

(English)

Mr. BELL (*Carleton*): Mr. Chairman, I would like to understand from Mr. Forsyth, with somewhat great precision, the exact nature of each of the four basic recommendations at the top of page 6.

As I understand it now, the first recommendation has been expanded. Mr. Forsyth is advocating to us today a flat rate increase for all retired civil servants, and he suggests an amount of \$50. That would not apply as I understand it, to anyone who has retired since 1960 on the 6 year average. In other words, there is nothing under the first recommendation for anyone who has retired since 1960 is that correct?

Mr. FORSYTH: Let me say this, Mr. Bell, that we are concerned—and I am now dealing—with the lower paid pensioners. Since the conception of the six year average, pensions have been substantially increased. I have no figures and I would not like to make any statement with regard to them. I am concerned with those people who retired prior to 1960 and who have small pensions. These are the ones that I say should first receive the preferred treatment.

Now, if we are going to have an escalator clause—

Mr. BELL (*Carleton*): I will come to the escalator clause. I would like to go down each one, if I may.

No flat rate would apply to widows under our proposal. Such remedy as there might be for widows would be under subsequent clauses of your recommendations?

Mr. FORSYTH: That is right.

Mr. BELL (*Carleton*): As I understand it, your rough calculation was that it might cost about \$17,000,000.

Mr. FORSYTH: Let me correct that. That figure was based upon the number of pensioners receiving pensions as at December 31, 1962. Obviously they would be reduced if it is just those who were on pension prior to 1960.

Mr. BELL (*Carleton*): I made a calculation that if you were including the widows it would cost approximately \$30,000,000; so that probably, not including widows, it would be less.

Mr. FORSYTH: Actually, that is the figure that I suggest for those persons who were receiving pensions in 1962.

Mr. BELL (*Carleton*): There would be no cut-off situation as in the others? You would not cut it off at \$5,000. You would pay it to my friends Norman Robertson and Dave Sim just as you would to a person who was getting under \$20 a month.

Mr. FORSYTH: Well, yes; I think that they have a right to get a cost of living bonus, too.

Mr. BELL (*Carleton*): Well, I now come to recommendation number two. There you propose something which I myself have advocated on a number of occasions a statutory escalation clause. Do you think that that would require an increase in contribution, and, if so, have you made any preliminary calculation of what the increase in contribution might be?

Mr. FORSYTH: Now, here you are asking me something that pose the rather difficult actuarial problem of how much you are going to ask; because you do not

know what you are going to meet and you do not know what the cost of living bonus is going to be.

I might say that I was concerned with an investigation into that. The cost is very, very high if we are going to fund that cost; but so long as you have a pension based upon terminal earnings, and the cost of living steadies down, you do not need an escalator clause.

Mr. BELL (*Carleton*): You do not?

Mr. FORSYTH: You do not need an escalator clause if the economy steadies down and there is no substantial rise. You see, the rise in the cost of living over the last few years has been—well shelter has gone up 11 points, from 152 to 163, since 1964; food has gone up 12 points.

Mr. BELL (*Carleton*): I think that all Members of Parliament are fully aware of those figures.

Mr. FORSYTH: It is pretty difficult to forecast those figures and, therefore, when an actuary is making a calculation he is going to have ample funds to provide it because that is what he is doing it for.

Mr. BELL (*Carleton*): I will go back to what was my original question: Should this escalation clause be financed by an increase in contribution, or should it be by way of payments direct from the treasury?

Mr. FORSYTH: Some of this cost of living is being absorbed by investment in private funds.

Mr. BELL (*Carleton*): Are you recommending the investment of the superannuation fund in private industry?

Mr. FORSYTH: Oh, yes, in private industry; yes, surely, I would say. A good example of a fund that is taking into consideration the cost of living is the Ontario Employee's Retirement Plan. There they will take a 5½ per cent contribution, and they will provide a pension equivalent to 2 per cent of the total earnings, with a 50 per cent survivorship to the widow and \$25 for every child under 18 years of age; and they are doing that on the basis of 5½ per cent contribution at retirement at age 65. They are only able to do that because the Ontario government is guaranteeing that the fund will receive 5 per cent a year. Now, that is an illustration of what interest will do to a pension plan.

Mr. BELL (*Carleton*): You have carried this somewhat farther than I thought your brief did, Mr. Forsyth. From what you said in your brief I did not realize that you were advocating a complete change in the whole principle of the superannuation act so that it would be invested in equity stocks in the future rather than being funded by the government.

Mr. FORSYTH: No, I did not say that. I was just giving an example of a modern pension plan and it is just a recent pension plan by the Ontario government which is going to meet that cost of living trouble; because their pension is going to be 2 per cent of their total earnings, and as their earnings rise their pensions rise, and they will have the money to finance it at the 5 per cent rate.

Mr. LECOURS: May I say something, Mr. Chairman? Mr. Bell, talking with Mr. O'Brien a few minutes ago, we discussed the feature of the 4 per cent which

has been established actuarially. Interest on money has practically doubled in the last 15 or 20 years, therefore I think it would only be fair if the government invested these monies, on paper, at the average rate of interest paid by the three governments in Canada, federal, provincial and municipal, which I think would work out to between $5\frac{1}{2}$ and 6 per cent at today's figures.

Mr. BELL (*Carleton*): What would that have been 20 years ago?

Mr. LECOURS: Roughly half.

Mr. BELL (*Carleton*): Would you have this as a floating rate year by year?

Mr. LECOURS: No.

Mr. BELL (*Carleton*): I happen to have some 2-3/4 per cent federal government bonds and I am awfully glad they are not invested in—

Mr. LECOURS: You probably also have the $6\frac{1}{2}$ and 7 per cent, and, if you are a gambler, the 8 and 10 per cent.

We are talking about the interest on money. The rent for money today is double what it was 20 years ago. Therefore, that is what Mr. Forsyth and my colleagues mean. That 4 per cent actuarial concept is no longer worthwhile today because since it was established, I do not know how many years ago, it has doubled.

Senator MACKENZIE: Mr. Chairman, we seem to be getting into the area of actuarial science.

Mr. BELL (*Carleton*): Yes; I would like to go ahead with each of these four recommendations. I want to fully understand. Mr. Forsyth has not made it clear yet, and I want to put it to him. I am very sympathetic with his point of view because this is what I have consistently advocated in escalation clauses, but I would like him to say whether he feels that this would require an increase in contributions, and, if it did, would he be prepared to advocate that?

Mr. FORSYTH: I see no reason why it should not be done. It certainly is for the benefit of the employees. There would be some difficulty in calculating the exact cost, but actuaries can do practically anything.

Mr. BELL (*Carleton*): In relation to the third recommendation, Mr. Forsyth, which is a very interesting one indeed, would you think that this might require an increase in contribution, and, if so, would you advocate it?

Mr. FORSYTH: The cost would be so small that I do not think you could get a real figure.

Mr. BELL (*Carleton*): Do you think this could be financed without any change?

Mr. FORSYTH: Let us take, for example, a widow and suppose that she is going to get a pension of \$2,000. All you would have to do then is to calculate the extra cost of \$1,000 per year. That would probably amount to \$75 or \$80.

Mr. LECOURS: If the actual rate of interest is applied there would be no necessity for increased contributions from the civil service.

Senator MACKENZIE: Mr. Chairman, this rate of interest is an actuarial matter. I have had some experience as a trustee with one of the large insurance

and pension funds. You have got to cover a period of 40 years. I do not think we want to get into that.

Mr. BELL (*Carleton*): Well, I am trying to avoid getting into it, Senator MacKenzie, and if I just have a moment more—

Senator CAMPBELL: May I just inject one point? We had an actuary here the other night and I think that he said that the average over a long period of time was about 4 per cent. We could keep that figure in mind.

Mr. BELL (*Carleton*): Finally, in your fourth recommendation, where you suggest the recalculation of the pensions of all living pensioners on the basis of the 6 year average, would this be for pensions for the future, or are you seeking for payment of pension in arrears on that basis?

Mr. FORSYTH: I feel that the recalculation that started in 1960 was very unfair to those pensioners who had retired, because they are the ones that created the conditions and did the work to produce the conditions under which this 6-year average revision could be made. They were entitled to it. They were at least entitled to some recognition.

Mr. BELL (*Carleton*): I am not arguing that with you Mr. Forsyth. I am just asking you if this is only for the future, or would you, on the basis of recalculation, pay the arrears that have accrued since 1960 to these persons—on the basis of that recalculation?

Mr. FORSYTH: Yes; I think we would be in favour of it.

Mr. PATTERSON: Mr. Chairman, I would like to say first that I am in full agreement, of course, with the view expressed that there should, and must, be an adequate increase in the pensions of superannuated civil servants. We have all received, I know, many communications bringing various specific cases to our attention, and these have only served to highlight the importance of giving it over-all consideration.

I appreciate, and agree with, the suggestion that rather than have a percentage increase it be based on dollars. I was speaking sometime ago to a person who is still employed in the civil service, and he urged this very thing, that in order to meet the needs of those in the lower pension brackets a dollar increase would be much more advantageous than would just a straight percentage increase. Therefore, I would agree that this is a very commendable approach to it.

Now, I just want to get one or two points cleared up in my mind. I listened to the presentation of the brief and also to the explanations given by the president. In the first instance I understood that widows would not be included in the increase, but then as he continued I thought that the president reversed his position there. Now, just where does this fit in? Would this \$50 apply to widows or not?

Mr. FORSYTH: Well, are these widows who are at present widows, or those who are going to get the pension which their husband has got, which already has the \$50 a month on it?

Mr. PATTERSON: Present widows?

Mr. FORSYTH: Present widows are certainly entitled to have their pension brought up to correspond with it. I would not deprive them of that for anything.

I did say that all widows are not suffering. Some are. You have got to take them as a class, and they are entitled to some increase in their pension.

Mr. PATTERSON: Well, possibly it was my own understanding and, perhaps I was in error, but I thought there was a contradiction in the two positions you had expressed.

Mr. FORSYTH: I would like to be very definite on that.

Mr. PATTERSON: One other matter was that I thought at first Mr. Forsyth stated that he was not urging this increase to those who would retire after 1960, and then just a moment or two ago, in answer to a question by Mr. Bell, I got the other impression, when he stated—and he mentioned the name—that even Mr. so-and-so was entitled to an increase. Now, would that be in another category?

Mr. FORSYTH: All I was saying there was that I think all living pensioners are entitled to have their pension recalculated on the basis of the 6 year average.

Now, that is going to make a considerable difference. I retired from the service in 1952 and I had three years of war service which was taken into account. I made a rough calculation. The 6 year average would make a difference of about \$600 a year in my pension. Putting them on the 6 year average; would make a substantial difference in the pensions that started prior to 1960; in other words putting them on a parity.

Now, if you are going to put a \$50 a month bonus on it, then of course you would probably be piling just a little bit too much on. But it is one thing or another. We are offering several suggestions in the hope that one will be adopted.

Mr. LECOURS: Or a better one substituted.

Mr. CHATWOOD: Mr. Forsyth, what is your general feeling about the study of this Committee? Do you feel that it has been a good thing that this has been referred to the committee and that they are now going to study the pensions and suggest action?

Mr. FORSYTH: I think it is an excellent thing. Pension is a technical subject and it is impossible to have it fully discussed in a large body such as Parliament itself. It is only in a committee such as this that you can get down to the groundwork on it.

Mr. CHATWOOD: In your third last line of your brief, you say that nothing has been done or proposed. Would not you consider that this is a proposal to do something?

Mr. FORSYTH: Well, it is a start in the right direction. Let us say that.

Mr. CHATWOOD: You have made a suggestion of a flat rate of \$50. Now, in the case of a man who retired in 1950 with 30 years' service and a man who retired in 1959 with 5 years' service, where probably the man who retired in 1959 was getting a higher wage than the man who retired in 1950 after 30 years, would you say that they should both get exactly the same amount of dollars—the one who has given 30 years at a low salary and the other 5 years at a higher salary?

Mr. FORSYTH: Yes, certainly; but your example is not good, because you will not get any pension with 9 years' service; you have got to have 10 years' service to get a pension.

Mr. CHATWOOD: Just give him one more year then.

Mr. FORSYTH: Certainly, he would be entitled to the bonus irrespective of the amount of pension that he is getting. It is true that percentagewise it will be greater than the lower paid individual and the percentage in the other individual might be comparatively small.

Mr. BELL (*Carleton*): Excuse me, Mr. Chairman, I think Mr. Forsyth is wrong when he says it has to be ten years. I think the law is 5 years.

Mr. FORSYTH: I have not read fully all the amendments.

Mr. CHATWOOD: Would you agree with the suggestion that a more complicated system could be worked out which might be fairer to a greater number of people?

Mr. FORSYTH: We have considered yearly every reasonable or sensible method of getting relief, and some that were not very sensible. I think that what we suggest is the simplest; and it is the most effective and it is the cleanest. It can be most easily done, with a minimum of work.

Mr. CHATWOOD: I am merely seeking general information. I am not necessarily supporting one opinion or the other.

The man who has five years' service could conceivably be getting a pension from private industry where he had worked for 20 years. Do you think that this should be taken into consideration, or ignored? In other words, a man who has only worked for 5 years and is getting a pension—or even 10 years—could have worked for 20 years in industry. He has done something with the rest of his life.

Mr. WALKER: You mean does he get this additional \$50?

Senator MACKENZIE: Is not this another form of means test, Mr. Chairman?

Mr. LECOURS: Could I answer that, Mr. Chairman? I think we can surmise that anybody under an adequate pension figure is going to withdraw his contributions. A person who has worked only five years would rather have the cash, because his pension is going to be peanuts. To take my case, I had to retire after 11 years' service. I cannot blame the government for what I am getting, and I do not. That is why I like what Mr. Émard said. You are bringing up the same question.

I think you can adopt the attitude that anybody with less than 10 years' or 15 years' service, if he is under 60 years' of age, is going to prefer to withdraw his contributions, and that is it finished.

Mr. CHATWOOD: We would, of course, be making an assumption there. What I am really suggesting is that the man who put in 30 years and who finished in 1950 is in difficult position, because he earned his wages when the dollar, comparatively, was worth less. However, I will leave that point, if I may, and deal with another.

On page 5 you mention that the escalator clause follows the lead of England, the United States, Australia and so on. Could you tell us the whole picture on pensions in these countries? In other words, what have they done with pensions, say, in Britain, or in France, and what is the complete pension picture in Ontario and other provinces you mention?

Mr. FORSYTH: Information on the English pensions is not very easy to obtain. It is not as easy as here. The English have a different system. They put on a

pension for their employees, and that is called a pension plan with a certain rate of contributions. If a man marries he has a chance to contribute to the widows' and orphans' fund, and that is kept separate. Only the married men contribute towards it. Here you have single men contributing to the fund for possible dependents that they probably never have.

I do not know that I can give you any accurate information on these pension plans. There have been some very learned texts on them and I have read them, but I find them hard to digest.

I do not know what is happening down in Washington. The last time I was in Washington I did inquire and I can tell you that it sounded to me like confusion twice confounded.

The JOINT CHAIRMAN (*Mr. Richard*): I think, Mr. Forsyth, as I mentioned, that we are more interested in what had been done in the escalator type, on the cost of living.

Mr. FORSYTH: I have not seen the final thing in England. In the United States I think the year before last they passed a statute under which, when the cost of living index goes up a certain number of points, there is an automatic increase in every pension. That is somewhat similar to the ones in the western provinces.

Mr. LECOURS: In England, we can only go by what we read in the newspapers, or in magazines, as a rule.

Mr. CHATWOOD: I would like to know more about these other escalator clauses but possibly I can find it from another witness or through research.

That is all I had, thank you.

Mr. BELL (*Carleton*): You will find something on page 6638 of *Hansard*.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Knowles.

Mr. KNOWLES: At the risk of appearing to oversimplify the matter, I wonder if it would be fair to suggest that what the association before us is asking, is that for people now retired we should find a way to make a supplement on the simplest possible basis, but that so far as the future is concerned—the forbidden part in our terms of reference—that is something to be taken care of by building an escalation clause into the act itself.

You have recommended that, but that does not affect your members. For your members and the people for whom you speak you are suggesting the simplest possible form of a supplement.

Mr. FORSYTH: The lump sum payment is to catch up with them, to the present; then have your escalator clause operate if there is a further increase. If we are going to deal only with persons who retired prior to 1960, there are not going to be very many of them around 10 years from now.

Mr. KNOWLES: So that you are advocating an escalator clause not only in the plan for future retirees, but that it apply to present superannuates if they live long enough to see further increases in the cost of living?

Mr. FORSYTH: That is right.

Mr. KNOWLES: They will.

The JOINT CHAIRMAN (Mr. Richard): Senator Denis.

Senator DENIS: I am far from being against an increase in pension for a person who has been in the civil service, but let us start with an example. Let us take, for instance the cost of living in 1950. A person who has retired has received a pension of \$20 a month. Is the contribution based on anything other than the cost of living? In 1950 was a pension of \$20 sufficient for that retired person to live? Do you agree that this \$20 was based on the number of contributions, or the number of years, that the husband worked? If the pension is not based on the cost of living, but based on contributions, and, for instance, the pension is sufficient—suppose that that retired person is getting \$20 a month pension—and let us say that the cost of living has doubled. In order to meet the cost of living increase he should receive \$40 a month instead of \$20. If you give him \$50 it is a gift, or something that nobody else has got? Am I right in saying that?

Mr. FORSYTH: Well, I hardly think so. The amount of pension that he is getting has no relation to the cost of living. It is the increase in the cost of living, as I say—the cost of food and shelter—that we are trying to bring up to date with this \$50. Let us take this as a handy figure. It could be \$48, or it could be \$52. We just chose \$50 as a matter of convenience. That will bring the pension approximately in line with the increase in the cost of living in the last 15 to 20 years.

Senator DENIS: You have to have some relation of the cost of living to the recommendation you are now making.

Mr. FORSYTH: It has a rough approximation, but I would not like to say that you could figure it out to two or three decimal points, if I could put it that way.

Senator DENIS: Do you know of anyone in the private sector who has increased pensions by that amount?

Mr. FORSYTH: General Motors did something. I have been out of the pension business for quite a few years. These labour documents are not easy to come by, but I did see one where the United Automobile Workers negotiated for an increase in pension up to \$350 a month; and that that pension would be applicable to those persons who had already retired as well as to those who retire in the future.

Senator DENIS: And what about the widows?

Mr. FORSYTH: There was nothing about the widow there. These industrial pensions did not provide anything for the widow.

Senator DENIS: Could you be more specific and give us, perhaps at a later date, the names of companies that have given an increase of \$50 a month? Of course, it may well be from \$1 up to \$300 of a maximum, but is it based on the cost of living? If the cost of living has increased by 2 per cent do they give him 2 per cent more on his pension, or how does it work?

Mr. FORSYTH: Well, they are tying industrial pensions into wages, and they are keeping wages pretty well current with the cost of living, so that their pension rises in proportion to their wages.

Now, where you get the negotiated pension, such as you have with the steel unions and the automobile workers union, you do not get anything related to

wages. A man getting \$100 a week gets the same pension as does a man getting \$500 a week. There it is a lump sum.

Now, there have been increases in some of the financial institutions where they have pension plans similar to our own, but I am not at liberty to mention them because the information that I got was confidential. I certainly do not think that they would like the publicity because it might be questioned whether it is sufficient or not. I do not think that I can give you the names of the actual companies. I can tell you what some companies have done.

Senator DENIS: You say that your recommendation would not apply to the pensioner since 1960. Does that mean that those pensioners would, in effect, today receive an increase of \$50 a month? Would their pension increase by \$50 a month as compared to those receiving pensions from 1950?

Mr. FORSYTH: Well, those people who have retired since 1960 have got a pension based on the 6 year average. Now, that 6 year average makes a difference. I quoted my own case, where I estimate that it made a difference of about \$600 a year; and it was not a very big pension. That, I think, is a good cutting off point. They will benefit by the escalator clause in the pension plan in respect to the cost of living, as does everybody else. The \$50 is to try to catch up with the arrears.

Senator DENIS: That is not exactly the increase in the cost of living; it is the areas that you want to be reimbursed from the time that there should have been an increase in the pension?

Mr. FORSYTH: The cost of shelter has increased since 1949 from 100 to 163.

Senator DENIS: We all know that. We are interested in knowing why a retired person, who is entitled by his contributions to receive \$20 a month, should receive an extra \$50 a month. That is the question I am asking you.

Mr. FORSYTH: We suggest this as a means of taxing to equalize those dollars that he is getting with the value of the dollars that he paid in to produce that pension.

Mr. LECOURS: May I say something, Mr. Chairman, in answer to Mr. Denis?

All that we are asking for is that some consideration be given to the plight of all those people whose pensions are inadequate after a certain number of years. That is all we are asking for. I repeat, we are not professionals in the field; we have no actuarial experience. Therefore, we must be vague in our suggestion.

I think the fundamental suggestion is this, that there are pensioners of the government service today who, after having given service worth 100 cents on the dollar, are receiving a dollar that will buy only 40 cents worth of food or clothing or shelter. As Mr. Knowles said, to simplify the whole thing, that is all we are asking for—that people be allowed to live adequately.

Senator DENIS: I do not want to imply that those who have received pensions after 1960 should not be included, but have you got many members in your association who have retired since 1960 and who are excluded?

Mr. FORSYTH: A few.

Senator DENIS: Do they agree with your brief?

Some hon. MEMBERS: No.

Mr. FORSYTH: The great majority of them do; and even the people who have been retired since 1960 are very sympathetic for those who retired in 1950 and beyond that, who are getting a very low pension.

Senator DENIS: Can I say something to prove that? The amount of \$50 a month would compensate for the arrears, and that would be fine if it was a lump sum to start, with readjustment of the increase in the years to come; but by reimbursing for the arrears you are asking the government to grant an increase for the years to come. What will happen if you have been reimbursed and you have too much?

Mr. FORSYTH: Well, that is a mistake on the right side. You will remember, however that in 1958 the token increase in pension was limited to those up to \$3,000. Now, I do not know; it struck me that if there was going to be any relief for pensioners, it should extend throughout, not in the nature of a percentage throughout; but if we are going to take a lump sum let everybody get it.

Senator DENIS: Do you say that every retired person in Canada should receive that increase of \$50 a month, even in the private sector, on even if he is self-employed, or those who are not receiving any pension at all?

An hon. MEMBER: That is irrelevant. He is not here on behalf of those others.

The JOINT CHAIRMAN (*Mr. Richard*): Are there further questions? Senator Fergusson.

Senator FERGUSON: Mr. Chairman, I am afraid that I am still a little confused. I would just like a little clarification about widows and the \$50 increase that you suggest should be paid. Am I to understand that all widows of retired civil servants should be paid the increase of \$50, as are retired civil servants? Is this your recommendation?

Mr. FORSYTH: Yes.

Senator FERGUSON: Well, I am still a little confused about recommendation three on page 6. As has been made quite clear, all that this Committee has the authority to do is to consider back pensions. I understand that this recommendation really just has to do with the future. I mean it really is not appropriate to make it because we cannot do anything about it.

Mr. FORSYTH: Not here.

Senator FERGUSON: Yes; but it could well be made to someone who is considering changing the system of superannuation.

I just wanted to be clear about that.

Mr. FORSYTH: We are trying to do well by our widows.

Senator FERGUSON: This is fine; and it is good to have this put before us. Probably whoever is drawing up a new act will remember your suggestion. I just wanted to be sure that it was nothing that we could really make any recommendation about, and that you did not expect us to do. I had intended to bring up the first point that Mr. Émard raised on page 1, that due to a lack of co-operation by the government authorities recruitment of members had been

seriously impeded. The statement made by Mr. Forsyth was that you were told that the names and address could not be given out, but you were permitted to have a form included in the pension envelope—

Mr. FORSYTH: No, we were not.

Senator FERGUSON: Oh, you were not? You were refused that? I beg your pardon.

Mr. FORSYTH: And I do not see why.

Senator FERGUSON: Well, I do not see why either, excepting that I once administered a pension myself in my province of New Brunswick—family allowance and old age security—and I do know that it would mean a great deal of additional work for the staff. Perhaps this is why they felt that they could not do it.

Mr. FORSYTH: Surely for one distribution of—

Senator FERGUSON: They would have to see that it went out with every new—

Mr. FORSYTH: What we wanted to do, Senator, was to let it be known that we were in business. We wanted people to know about it and get in touch with us in some way or other. We have not got the money to advertise on the radio or in newspapers, and word of mouth is pretty slow in getting around. However, we have over 500 members here in Ottawa alone, and mostly by people phoning and by our phoning; we get acquainted with them.

Senator FERGUSON: Would you still like to have that privilege?

Mr. FORSYTH: Very, very much so.

Mr. WHITEHOUSE: Mr. Chairman, may I have the privilege of speaking on this question? I think it only fair that the Committee should know the history of why we have not been given this privilege. When we commenced organizing some three years ago I sought and obtained an interview with the Prime Minister and the Minister of Finance at that time, Mr. Gordon. One of the things that we asked was for the names and addresses of all superannuates in Canada. Subsequent to the interview we were given a flat No. The reason for this, we were told, was that the superannuates themselves had for various reasons requested that their name and address be not given out. We were given to understand that if we could get this thinking of the superannuates changed the government would be prepared to give us this information. We went to work, and at our first national convention all the delegates present voted that they were quite willing that this information be given to this organization.

Literally dozens of our members wrote to the Minister of Finance or to the Prime Minister, and we received a letter in turn from the Minister of Finance or the Prime Minister telling us that he had received the letter of so and so and had given them a copy of their reply stating that the government was pleased to give us the name and address of this particular superannuate whom we already had as a member. That is as far as it got.

In fairness to the superannuation branch, particularly to Mr. Trudeau, he has told me personally that although it would be an awful lot of work he would

be only to happy to compile this list and let us have it and keep us up-to-date with supplementary lists each month. That is the situation, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Were you asking for only the names, or—

Mr. FORSYTH: Names and addresses.

The JOINT CHAIRMAN (*Mr. Richard*): Not the amount of the pension?

M. WHITEHOUSE: Oh, no; just the name and address. To be quite frank, we wanted to check them as members of our organization.

Mr. WALKER: Mr. Chairman, there are just two things I want to clear up. I just want to be very clear on this question of the \$50 payment. You were thinking of the \$50 payment to the widow, not the widow's proportion of the \$50?

Mr. FORSYTH: The straight \$50; that is right.

Mr. WALKER: The other question is: What was to be the purpose of the list? Were you going to send out application forms for membership and this sort of thing?

Mr. WHITEHOUSE: As I say, it was to let them know that we were in business.

Mr. WALKER: Did you suggest to them that your association would present bundles of whatever you wanted sent out to the superannuation people and ask if they would include them in the envelopes?

Mr. WHITEHOUSE: No, we did not.

Mr. WALKER: Would this serve your purpose?

Mr. WHITEHOUSE: A slip would serve our purpose. In conversation with the secretary of the Treasury Board, Dr. Davidson, he said that he was quite willing to have this done, too—a slip enclosed with the superannuation cheque.

Senator FERGUSON: I thought someone said that the superannuation branch would not do this?

Mr. WHITEHOUSE: The lists?

Senator FERGUSON: No, no; I know they would not give the lists. I thought Mr. Forsyth intimated that they had been asked to send out the slips and he had told me that they would not do it.

Mr. FORSYTH: No.

An hon. MEMBER: Somebody said that.

The JOINT CHAIRMAN (*Mr. Richard*): It might mean that the superannuation branch would have to listen to similar requests from other parties who might be interested in the problems of superannuated civil servants, or for other purposes. There might be a problem there; there could be a conflict between organizations—some with good purposes and others less good—to do the same thing.

Mr. FORSYTH: I certainly think it would be very ill-advised to give a full list of names and addresses, but if the slip were limited to organizations such as ours—

An hon. MEMBER: You will get charitable organizations asking for the same thing.

Senator FERGUSON: It could create problems. There are many, many organizations which would ask for a similar list. I know that from my own experience. You just cannot fit them all in.

Mr. WALKER: Would it be helpful to have a one-shot deal with your piece of literature, or whatever it is, in one mailing?

Mr. WHITEHOUSE: It would.

Mr. WALKER: All right.

Mr. CHATWOOD: My question was on that. I think we all recognize the problems. If you start putting material in with pension cheques and with various other government cheques that go out—I imagine legel people would bring this up—are we not somehow implying that the government sponsors this, or approves of it? They would necessarily have to approve of it or they would not let it be put in.

However, ignoring that, do you feel that it would be a good thing to have a mailing put out at your expense, using your envelopes and your material, and just having the addressed labels stuck on? You would not be supplied with the list of whom it went to, but the number of people it went to would be supplied? It could be done in that way without any suggestion that the people paying the pension were sponsoring this organization.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps all this may be unnecessary. After this Committee has deliberated perhaps the superannuates will not have to function in the same manner. Could we follow the order now? Mr. Émard.

Mr. ÉMARD: Mr. Forsyth, as an expert on pensions, and a former representative of the employer, what is your reaction to pensions being part of collective bargaining?

Mr. FORSYTH: They are certainly vital to the employee these days. An employer without a pension plan is certainly putting his employees very much at a disadvantage.

When you come to bargaining for them, you have got to put some limitation on them. I mean the man has got to do something for it because it is a reward for services. I do not see that there can be any other definition. As matter of fact, that is the definition that the Carnegie Foundation laid down when they started in on pensions away back in the twenties, and it is as good a definition as I know. There is the case I cite of a Scottish judge saying that a pension is a payment to a servant who has deserved well of his master, but do not forget that in those days there was an entire monopoly and a very paternal attitude on the part of employers towards the pension that they distributed to their employees. Up until a few years ago it was a matter of grace with the civil service. The legislation said that the governor in council might grant a pension; not "will," as it is now. Pensions have come a long way in the last 40 years, and they will go a long way in the next 40 years.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. McCleave.

Mr. McCLEAVE: I have three questions that I understand have not been asked.

What is the membership of your organization?

Mr. WHITEHOUSE: If I may answer the question, Mr. Chairman, the potential with the armed forces and the RCMP is 60,000.

Mr. McCLEAVE: What is it actually?

Mr. WHITEHOUSE: Today it is between 4,000 and 5,000. If we had obtained the co-operation of the department we estimate that our membership would have been about 25,000.

Mr. PATTERSON: I thought the figures that were given were between 2,500 and 3,000.

Mr. LECOURS: That is the figure I had in mind, based on certain figures that I saw this week. Mr. Whitehouse is the authority on that matter.

Mr. McCLEAVE: When was your association founded?

Mr. WHITEHOUSE: Our founding convention was in October 1963.

Mr. McCLEAVE: My third question is: What is the range of pensions now enjoyed by your membership?

Mr. WHITEHOUSE: Well, it is all given here in Hansard. You can refer to it and get all the information in each classification.

Mr. McCLEAVE: You are referring to the information tabled and printed in *Hansard* in answer to a question by Mr. Knowles? Your association encompasses people all over that range; is this correct?

Mr. WHITEHOUSE: Yes.

Mr. McCLEAVE: Now, here is my final question: I take it from the \$50 per month formula that was presented earlier that you visualize a cost of about \$17,000,000 to the treasury, which seems to me to break down to about slightly under 30,000 who would be eligible for it. This would not include people who have been members of the armed forces and who are now on pension? Am I correct? This would be the people who are eligible from your own association.

Mr. FORSYTH: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator DENIS: On your exclusion from your recommendation of those who retired after 1960, could you supply us with a comparison between 1950 and 1960 of the pension based on a salary of, let us say, \$5,000 and the amount of contribution by each of these two pensioners? Would it be possible to have those figures?

Mr. FORSYTH: Well, I suppose you mean a pension in the 10 years ending in 1950 and in the 6 years ending in 1960 and what the difference would be on the same amount?

Senator DENIS: The pension from 1960 is based on the 6 best years and in 1950 it was based on the 10 best years, or something like that but it amounts to a contribution of some kind and it amounts to a pension of some kind. Could you add up the contributions in 1950 and in 1960, and calculate the amount of the

pension according to the change and the way it is calculated; what would have been the pension in 1950 and what would be the pension in 1960; and what would be the contributions in both 1950 and 1960? I would like to have these figures, because you have said that those people who retired after 1960 do not need anything, according to the—

Mr. WAY (*First Vice-President*): I retired in May of 1962. My pension is \$246 and some odd cents. My salary was slightly under \$4,000.

In reference to the question, there has been a difference in positions. In fact, I retired as a supervisor grade 2. In 1950 there was no such position. There were senior examiners. At that time the wage was \$1740 per annum. If you figure out 70 per cent of that, or at least 2 per cent per annum of that, it is very low. The actual figures I cannot bring to mind right now, sir. My salary at the present time is \$246.

If I may offer a comparison here, a very good friend of mine in the United States, a grade lower than myself and somewhat in the same position, has a retirement pay right now of \$560 a month; it goes away up over \$7,000 a year. He was over my salary, naturally—the comparison is known between the two—but he was at a lower grade than I. There is a comparison for you.

Mr. BELL (*Carleton*): That must be because of salary levels, not because of the superannuation scheme.

Mr. WAY: It was because of the superannuation scheme, gentlemen. They get an automatic raise just about every year, or every two years. His wife was visiting me recently in Vancouver. I was quite surprised. They do not know when their raises are coming through; they just come automatically. I was quite surprised at the amount he was getting at this time.

Senator DENIS: I would like to know what the same man had after 15 years of service; the same position; and the contribution in 1950 and the contribution in 1960. I do not want exceptions, or anything like that. I want to know about the two men holding the same position, one in 1950 and the other in 1960, after 15 years of service; and what would be the contribution of both and what would be the pension of both? That is what I want to know.

Mr. WAY: The contribution in 1950 was 5 per cent. It was raised to 6 per cent shortly afterwards; and the overall average is 6½ per cent.

Senator DENIS: Those who retired in 1960 are paying 1½ per cent more in contributions than those in 1950?

Mr. WAY: May I rephrase that? Up until 1960 I was paying 6 per cent, and at the present time I believe it is 6½ per cent.

Senator DENIS: So that those who are retiring after 1960 are paying 1½ per cent more as a contribution. What would be the difference between the two pensions?

Mr. WAY: The pension is based on 2 per cent per annum of years of service. In other words, in 15 years you get 30 per cent.

Senator DENIS: That would be 30 per cent of in 1952, the same amount of money.

Mr. KNOWLES: Mr. Chairman, if you had two persons, one of whom retired in 1950 and the other in 1960, both of whom had worked for 15 years and both of whom had the same kind of job, the 30 per cent factor would be the same in both cases, but the pension of the one who retired in 1950 would be based on a lower salary scale and on the 10 last years; and the one who retired in 1960 would be based on a higher salary scale and the best six years.

An hon. MEMBER: The difference is between the 6 and the 10 years.

Senator DENIS: Let us take the 10 years; it amounts to 30 per cent; in 1960 it is based on the 6 best years. We could get these figures very easily, I think. I agree with Mr. Knowles that they are not receiving as high a percentage now as a total, but—

Mr. FORSYTH: On the 6 year average the pension has increased very nearly 50 per cent over what it would be on the 10 year average. It is two fifths more.

An hon. MEMBER: What are the increases in salary?

Mr. FORSYTH: Well, of course, it does not matter about the increase in salary. The pension itself is greater.

(Translation)

Mr. ÉMARD: If I may take a moment to make a suggestion, Mr. Chairman, regarding technical problems, I think that your Association might perhaps contact the Public Service Alliance of Canada and I am sure that they would be very pleased to give you the technical data that you need, without cost.

The JOINT CHAIRMAN (Mr. Richard): A little later, Mr. Émard, we will have other witnesses who can give us specific figures in answer to this type of question. We should not ask for calculations from these people here this morning because they are presenting a Brief with a rather specific solution and do not claim to base it on figures.

(English)

Are there any other questions?

(Translation)

Mr. LECOURS: May I mention something to Mr. Émard. For your own information, when our Association was founded we were affiliated with the Civil Service Federation until last year when following the Windsor Convention, they asked us to contribute \$3.00 per year instead of \$1.20, with the result that we, not being able in our present circumstances, to increase our own dues—we would have been faced with even greater expenditures that we could not recuperate from our own membership for various reasons, which are known to you. Therefore, when you suggest to turn to the Alliance, this is an impossible answer because we have exhausted all means of obtaining co-operation from the Alliance. Our people did what they could; they presented Briefs to the Government on three or four different occasions, and at that time we were not being encouraged. Today, I admit, that our requests will be considered, will be studied, and that adequate solutions will be found.

We have to depend on people in the Government in order to determine adequately what increases need to be voted to pensioners, who I repeat, gave in

service a value of 100 cents to the dollar and are now receiving in return, a dollar which is only worth forty cents.

(English)

Mr. KNOWLES: Mr. Chairman, there have been many references to the table that appears on page 12400 of Hansard of January 30, 1967. Perhaps it would be a good idea to have it on the records of this Committee?

Some hon. MEMBERS: Agreed.

(Translation)

Senator DENIS: Mr. Chairman, I understand that we cannot require a recognition of this discrepancy by the representatives who are here, but it might perhaps be a good idea for the Government actuaries, or for someone at any rate, to give us the exact discrepancy taking into account the wage increases which occurred and the calculation made according to the last ten years, or the six best years. If I understood correctly, after fifteen years' service the employee earns \$5,000 a year. He probably earned \$120 a year less the year previous and \$120 less a year the year before that, and so on. Consequently, it is easy enough to calculate the pension of the person who retired in 1960, and the one who retired in 1950.

The JOINT CHAIRMAN (Mr. Richard): The officials of the Department of Finance, Senator, will be here and will certainly have the answer the next time they appear before the Committee.

(English)

I think Mr. Whitehouse indicated earlier that he would like to say something more.

Mr. WHITEHOUSE: Yes, Mr. Chairman. I want to talk about the enquiries which were made about what pertains in other countries in the upward adjustment of pensions.

I am in communication with a number of retired civil service organizations in other countries of the world. I will just cite what pertains in the United Kingdom and the United States of America; and it is similar in Australia and New Zealand and in some large companies right here in Canada, as I stated when I presented the brief. The Ford Corporation and the British Columbia Hydro Power Authority are classic examples; and I am sure that you can find many all over this country.

In the United Kingdom, the government recognizes its responsibility to its former employees by increasing the pensions of their retired people. This is a fact which is on record and it can be verified if you so desire. They have made several upward adjustments, and they have introduced a cyclical review system of pensions of former employees of the British Government. Regularly these pensions are looked at and compared with the cost of living at that particular time, and if an upward adjustment is warranted it is made automatically. I suppose you can call that an escalator clause if you wish, which is what we are asking for here.

Mr. Bell asked if we were prepared to pay for an escalator clause. I would ask if the people who contribute to the Canada Pension Plan pay for the

escalator clause in that that the government has introduced? If this is the case, then perhaps we should be prepared to do it.

In the United States of America the situation was very similar to that in the United Kingdom. Again, the U.S. government recognized its duty to its former employees and made several upward adjustments in pensions as the economy of the country warranted it. In saying this, one must have due regard to the power of the representations made to Congress by the retired civil servants of the United States of America. Again, they are taken now to be a more or less regular thing, and a bill was passed in Congress about a year ago, signed by President Johnson, that automatically an increase will be made to retired government employees if the cost of living rises 2 per cent. I think you can find that in the record, too.

Mr. BELL (*Carleton*): It is three per cent; and when it remains at that for three months there is an automatic raise of three per cent on the pensions.

Mr. WHITEHOUSE: If the Committee sought to use this information for their guidance it is there; and we hope that they will use it, to our benefit.

The JOINT CHAIRMAN (*Mr. Richard*): Was it retroactive in the United States?

Mr. WHITEHOUSE: In the original upward adjustment, they compared it—as one of the members mentioned—with the cost of living and made an adjustment accordingly.

The JOINT CHAIRMAN (*Mr. Richard*): Have you any information about the plan now proposed by Ontario, how it will work and how much it will cost?

Mr. WHITEHOUSE: I have not; but I have written for it. It was announced only a few weeks ago. It is effective January 1, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. WALKER: I have one last question: When you talk about retired superannuates do you mean retired from any kind of work, or retired from the civil service?

Mr. WHITEHOUSE: Retired from the civil service.

Mr. WALKER: Retired from the civil service?

Mr. WHITEHOUSE: Oh, yes.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Whitehouse, Mr. Forsyth, Mr. Lecours and Mr. Way.

The next meeting is on Thursday morning when we will hear from The Professional Institute of the Public Service of Canada.

The meeting is adjourned.

APPENDIX "X"

PENSIONS OF RETIRED CIVIL SERVANTS

(Extract from Debates)

	Retired civil servants	Widows
(a) Less than \$ 20.00 per month	458	1698
(b) \$ 20.00 to \$ 29.99 per month	1201	1903
(c) \$ 30.00 to \$ 39.99 per month	1866	1869
(d) \$ 40.00 to \$ 49.99 per month	1865	1612
(e) \$ 50.00 to \$ 59.99 per month	1882	1448
(f) \$ 60.00 to \$ 69.99 per month	1790	1322
(g) \$ 70.00 to \$ 79.99 per month	1644	1213
(h) \$ 80.00 to \$ 89.99 per month	1531	834
(i) \$ 90.00 to \$ 99.99 per month	1429	672
(j) \$100.00 to \$149.99 per month	5982	1911
(k) \$150.00 to \$199.99 per month	4137	493
(l) \$200.00 to \$249.00 per month	2949	135
(m) \$250.00 to \$299.99 per month	1806	73
(n) \$300.00 and over per month	2382	56
Total	30922	15239

	Retired civil servants	Widows
Newfoundland	338	121
Prince Edward Island	177	94
Nova Scotia	1435	742
New Brunswick	878	472
Quebec	5376	2748
Ontario	13443	6740
Manitoba	1479	636
Saskatchewan	949	425
Alberta	1652	773
British Columbia	4576	2130
Territories	45	11
Outside Canada	574	347
Total	30922	15239

First Session—Twenty-seventh Parliament
1966-1967

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 30

THURSDAY, FEBRUARY 16, 1967

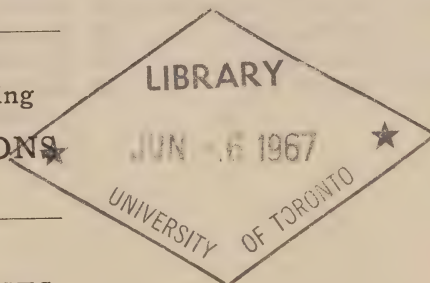
Respecting

PENSIONS★

WITNESSES:

Mr. L. W. C. S. Barnes, Executive Director, Dr. J. M. Fitzpatrick, Economist, The Professional Institute of the Public Service of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate Representing the House of Commons

Senators

Mr. Beaubien (<i>Bedford</i>),	Mr. Ballard,	Mr. Langlois
Mr. Cameron,	Mr. Bell (<i>Carleton</i>),	(<i>Chicoutimi</i>),
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. Madill,
Mr. Denis,	Mr. Chatwood,	Mr. McCleave,
Mr. Deschatelets,	Mr. Crossman,	Mr. Orange,
Mrs. Fergusson,	Mr. Émard,	Mr. Patterson,
Mr. Hastings,	Mr. Éthier,	Mr. Sherman,
Mr. O'Leary (<i>Antigonish-</i>	Mr. Fairweather,	Mr. Simard,
<i>Guysborough</i>),	Mr. Hymmen,	Mr. Tardif,
Mr. MacKenzie,	Mr. Knowles,	Mrs. Wadds,
Mrs. Quart—12.	Mr. Lachance,	Mr. Walker—24.
	(Quorum 10)	

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, February 16, 1967.

(51)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.45 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Emard, Hymmen, Knowles, Patterson, Richard, Walker (8).

In attendance: Mr. L. C. W. S. Barnes, Executive Director, Dr. J. M. Fitzpatrick, Economist, the Professional Institute of the Public Service of Canada.

The Committee questioned the representatives of the Professional Institute of the Public Service of Canada on their brief.

At 11.48 a.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, February 16, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I see we have a quorum. At this meeting we have The Professional Institute of the Public Service of Canada with Mr. L.C.W.S. Barnes, the executive director, and Dr. J. M. Fitzpatrick, also an economist and Chairman of the Superannuation Commentator of the Professional Institute, who will present a brief.

Mr. L.C.W.S. BARNES (*Executive Director, Professional Institute of the Public Service of Canada*): Mr. Chairman, honourable members of the Senate and of the House of Commons, Canada is one of the fortunate countries which have experienced steady economic growth and a rising standard of living during the years following World War II. Our universal concern has been to ensure an equitable distribution of rising incomes and the widest participation in these improving standards. Indeed, this was one of Parliament's objectives when it established the Economic Council of Canada. However, one group does not participate in these rising incomes and improved living standards. This group consists of retired persons who must live on fixed incomes and suffer erosion of purchasing power. Into this unhappy category fall the retired federal civil servants and all other superannuated persons covered by the Public Service Superannuation Act. Their problem is urgent and demands an immediate solution.

The Professional Institute is on record as favouring the inclusion of pensions as an item for collective bargaining. A number of features in the Public Service Superannuation Act warrant review and amendment in the light of new developments in pension planning and changing economic conditions. This brief is restricted, however, to the immediate problem of the retired federal civil servant faced with a fixed income and dwindling purchasing power.

It is a well known fact that the purchasing power of the dollar has dropped sharply in the past 10 to 20 years. Erosion of purchasing power has hit hardest those people living on fixed retirement incomes. The longer one lives after retirement, the greater the erosion. The experience under the Public Service Superannuation Act is that federal civil servants who retire at age 65 live for an average of 14 years thereafter; those who retire at age 60 on the average live for 17 years and over 20 per cent live 20 years or more. It seems reasonable to expect that continuing research and development in medical science will extend our life span. The full significance of these facts is put in sharp focus when one considers that a civil service pension of \$150 per month was considered very good in 1946; today, 20 years later, it will hardly pay the rent; and, as stated above, more than 20 per cent of the civil service pensioners are still living 20 years after retirement, most of them with pensions far less than \$150 per month.

It seems a matter of simple social justice that over such long periods of time, pensioners should have the real value of their benefits maintained.

The Professional Institute cannot emphasize too strongly its position that pensioners' benefits in an economic climate of rising costs and standards of living should be protected. A man should not be penalized because he was born 20 years too soon. Current progress, after all, is based on earlier progress to which the pensioner contributed; in other words, the present generation builds upon an existing foundation. Those who built this foundation must not be forgotten.

The Professional Institute takes the position that as a good employer the government should adopt the principle of automatic adjustment of pension benefits after retirement.

The procedure for adjusting pensions adopted by the government in 1959 has proved inadequate. In the light of experience, periodic adjustment will always be required. The Economic Council of Canada has set as an objective, a 5.5 per cent per year rate of growth in the economic output up to 1970, which involves an annual increase of 2.4 per cent in the output of employed persons. To date these minimum rates are being met and surpassed. It can be anticipated, therefore, that persons now in the labour force will share in this increased productivity. Unfortunately, there is no built-in provision for public servants on pension.

If our superannuation plan is to meet its theoretical objective of providing a retired public servant with a standard of living related to the standard he enjoyed before retirement, the plan must make some direct provision for post-retirement adjustments in benefits. A piecemeal approach to pension adjustment is unsatisfactory. Such reviews, in general, are time consuming, costly, and usually less than satisfactory because they all too often leave inequities which are either ignored or treated in a "patch-up" manner. Furthermore, these reviews take place only after much pressure has been exerted. Our proposal is that this whole problem be approached in a systematic fashion.

The concept of post-retirement adjustment of pension benefits is neither new nor unique. According to a U.S. study, by 1964 eleven countries had adopted the principle of adjusting old age pensions to specific economic changes—the earliest of these economic changes—the earliest of these was Denmark in 1922. Canada was added to the list with the introduction of the Canada and Quebec Pension Plans.

In Sweden pensions are subject to negotiation between employee organization and the government in the same way as salaries and adjustments take account of changes in the standard of living as well as changes in the cost of living. This view was also expressed by the British "Withley Bulletin" of May, 1962, in the following lines: It is wrong to allow the amount of pensions already in issue to be outstripped by pensions currently awarded. In the United States the Federal Civil Retirement System has recently introduced a cost of living increase formula tied to the United States Consumer Price Index.

The same arguments and rationale which motivated the Canadian government in applying the post-retirement adjustment principle to the National Social Security Programs should logically be extended to the Public Service Superannuation Act.

The Professional Institute urges the establishment of a formula for automatic adjustment of public service pension benefits to changes in economic conditions. There are a number of adjustment procedures which warrant consideration:

- (1) To adjust pensions to reflect changes in the cost of living (usually measured by a statistical index).
- (2) To translate earnings records into index numbers and to pay pensions on the basis of current or recent earnings levels.
- (3) To determine the pension as a per cent of the salary of the employee's final grade or rank and to maintain the relationship during the pension period.
- (4) To establish an index of earnings based on major civil service salary classifications and to use this index as the determinant for pension adjustments.

Of the above choices, the Professional Institute considers number 4 the most satisfactory.

The plight of the already superannuated member is of immediate concern and demands action. The Professional Institute recommends:

- (1) that an index of earnings based on major civil service classifications from 1959 to date be established as the index to determine the pension adjustments for these individuals.
- (2) that these individuals henceforth be included in the automatic adjustment of pensions herein recommended for all members.

The Professional Institute realizes that the proposals in this brief will involve some additional costs which can be evaluated only by a detailed actuarial study. Private employers can resort to the investment of pension funds in common stocks to pay increasing pensions after retirement. This alternative is not available for the Public Service Superannuation Account. It can be said, however, that the added cost of the proposals made above would be met to a considerable degree if the Superannuation Account were to receive a realistic rate of interest. Under today's conditions, trustees of a pension plan would be open to sharp criticism if money were invested at only 4 per cent. The Professional Institute strongly urges the government to increase the interest rate for the Superannuation Account to a more realistic rate such as the average yield of Government of Canada direct and guaranteed securities plus one per cent.

In conclusion, the Professional Institute recommends immediate action be taken to:

- (1) Improve the level of benefits for federal civil servants already on pension, as suggested in this brief.
- (2) Amend the Superannuation Act to provide an automatic adjustment formula to maintain the purchasing power of current and future retirement benefits.
- (3) Update the interest basis of the Superannuation Account.

The Professional Institute is willing and eager to participate in any study required to implement these recommendations.

In conclusion, the Professional Institute recognizes the complexity of the problems to be resolved in connection with the pension program, and therefore urges the government to add the Superannuation Act to the list of items subject to collective bargaining.

Senator MACKENZIE: What do you mean by major civil service salary classifications? Does this include an average, or an average of the largest group, or what?

Mr. BARNES: This is a formula which we think should be derived through discussion. The sort of thing we had in mind was certain key classes which are representative of major areas of the service.

Senator MACKENZIE: The "major" are the numbers in the service of the government rather than those in the top bracket?

Mr. BARNES: Yes. A representative selection of key classes across the service which would enable one to develop an index of over-all salary movements within the service.

Senator MACKENZIE: You mention a realistic rate of interest. Would you be happy if you felt that this was going to vary with the up and down of interest rates? I have in mind that in some pension schemes with which I have been associated the interest rate, when I first became interested in them, was $2\frac{1}{2}$ per cent. That was realistic.

Now, I doubt if any sensible person would be happy, if this were reintroduced, in the expectation that the pensions of some people were going to be based on that rate. In other words, I think the actuarial estimates of the period that a person is in the employ of any organization for a 30 year period, say, is the kind of thing you have to work on. Today the bank interest rate is limited to 6 per cent, and in some cases for government bonds of some governments you can get a bit more but, as I say, I doubt it.

Now, my final question flows from this. What amount do you consider to be a reasonable income for retire Canadian citizens, and we are concerned here with civil service personnel. What amount would you consider to be a reasonable minimum? Associated with that, how much does the average person in the major groups get on retirement at age 70? A \$75 old age pension? They do not get anything at all out of the Canada pension scheme; is that right? So that it would seem as if their assistance from government sources consists of \$75 a month, plus the pension they receive. Are there any other sources of public assistance of which you are aware?

Mr. BARNES: Mr. Chairman, do you mind if I stop on the rate of interest question which Senator MacKenzie raised. I think this is a point of significant interest. We did suggest the current rate plus 1 per cent. I was very interested in listening to Mr. Hartt, the actuary, speak about the situation which he and his colleagues envisaged in the middle 1950's of planning on a zero rate of interest. I think this is one of the places where economists sometimes think a little ahead of actuaries. Economists were thinking in these terms in the 1930's, and it was somewhat irreverently referred to as "Lord Keynes day of judgment" when interest rates dropped to zero and the entire economic system came to a halt. I very much doubt, and I would like my colleague here to perhaps comment on

this, whether there is any reasonable fear at the moment, under the economic policies being followed in the western world today, that prevailing rates of interest on long term government bonds, plus 1 per cent, is ever very likely to be less than 4 per cent.

Senator MACKENZIE: Well, we all hope this is so. We are all interested, but we have no assurance. What about the other matter? This is an involved question.

Mr. BARNES: The Institute's view on this is that this should be a fraction of the man's pay on retirement and the continuing development of that pay scale.

Senator MACKENZIE: What kind of percentage are you speaking of?

Mr. BARNES: Well, 70 per cent for 35 years' service.

Senator MACKENZIE: You want 70 per cent based on—

Mr. BARNES: That is the existing figure, but the problem is that one meets people, and I was visiting some of our western branches last fall and I met some of our senior emeritus members who had been on pension for 20 years, people holding very senior positions in the service, who retired on salaries on the order of \$7,000 to \$8,000 a year, which was pretty good 20 years ago.

Senator MACKENZIE: They are lucky to get that.

Mr. BARNES: They are very senior people.

Senator MACKENZIE: I can speak to that from the university point of view.

Mr. BARNES: Yes, and they are now living—

Senator MACKENZIE: They are much luckier than many university people.

Mr. BARNES: —on pensions of less than \$3,000 a year, whereas the man who is doing their job is now probably earning \$19,000 or \$20,000 a year. This is the sort of situation which we do not really feel to be acceptable.

Senator MACKENZIE: I agree, but we are concerned at the moment with those who have retired, is that right?

Mr. BARNES: Yes.

Senator MACKENZIE: Whose pensions are inadequate, and I am interested in knowing what you think the minimum is that these men and women should get?

Mr. BARNES: I do not think that we could envisage one number that fits all of them. I think, as we suggested, this should be related to their salary at the time of superannuation, adjusting up to the current salary for the position which they vacated.

Senator MACKENZIE: You are prepared to accept the suggestion of the group who were here on Tuesday that a—

Mr. BARNES: We feel that this is not really acceptable. This hit very hard in 1959 when there was a \$3,000 cutoff level. Some of these people that I met out in the prairies last fall were just above that \$3,000. There was no adjustment at all in 1959, and they are still living on that \$3,000.

Senator MACKENZIE: You will remember that there are a great many people in our society who do not get \$3,000 on retirement and any government, though

they have a special interest in retired civil servants, has to be concerned about the unhappy position and condition of these other people. I am not sure that it will be politically possible to make too much of a special case for the civil servants who retired in relation to the rest of the population who, apart from the Canada pension scheme, which they may or may not benefit from and if they are now retired they do not, and the old age pension. It just does not make political sense. I think you have to be realistic about this. I may be wrong. Now, perhaps you would like to go back to this business of interest and equity benefits.

Dr. J. M. FITZPATRICK (*Economist, Professional Institute of the Public Service of Canada*): I would like to pick up where you left off initially if I may. The first comment I have is that the superannuation program is not basically a social welfare program but a paid-up program, and it has been this way for a hundred years. It is a paid-up program—

Senator MACKENZIE: You are now talking about the pension plan of the civil service?

Mr. FITZPATRICK: Right.

Senator MACKENZIE: And for our purposes here today you are not concerned with the rest of the world, right?

Mr. FITZPATRICK: Our superannuation plan has in many other ways—

Senator MACKENZIE: Within that limitation, sir?

Mr. FITZPATRICK: Yes, sir. Now, dealing with interest rates, the projection that we have to date is that our gross national product will continue to move upwards. The second point is that there has been a strong substitution of capital for labour, which means that a large proportion of the gross national product results in investments in capital. Now, the thinking to date is that interest rates will remain at a competitive level. The competitive level relates to the gross national product. The gross national product in effect has had an upward trend, and it is—

Senator MACKENZIE: Not to the supply of money?

Mr. FITZPATRICK: Not to the supply of money. It is partly related to the effect of money, and with this in mind it is thought, at least, that the interest rate will remain at something in the order of the level it is now. Your point is correct, sir, that we have had recessions and depressions in the past and we can have them at the present, but with a program which is related to superannuation, possibly a minimum interest rate of some kind is required as well as tying it to long term Canada bonds. Long term Canada bonds are probably as stable an indicator as anything.

Senator MACKENZIE: Do they not vary sometimes?

Mr. FITZPATRICK: They do.

Senator MACKENZIE: I think Mr. Bell has some perpetuals that are at what, 2½ per cent, Mr. Bell?

Mr. BELL (*Carleton*): No perpetuals, just the ordinary 2¾ per cent.

Senator MACKENZIE: Sorry.

Mr. FITZPATRICK: If I might mention one other point, sir, that might be worth consideration. The University of British Columbia at this particular time is doing a study on the impact of escalation.

Senator MACKENZIE: Good. That is my old university.

Mr. FITZPATRICK: That is why I thought I would put that one in. Secondly, trust companies across the board are looking very seriously at this question of escalation and how they can work this into their program. Much of the literature now is orienting itself towards "How do we do the job?" rather than "Should we do the job?" Now, the thinking in this particular brief is that if an adjustment is made it should be an automatic type of thing. I believe that most civil servants would agree with me that the reason the Canadian civil service is one of the most respected civil services in the world is due in large part because of the retired civil servant, and he is the one who has devoted most of his career to the responsibilities at the federal level. The present civil servants have basically built on the strong foundation that was established by their predecessors. I believe that we would like to see an automatic adjustment system put into effect because the present civil servant, as well as the government, has a responsibility to the retired civil servant.

Senator MACKENZIE: I would be prepared to agree to this. I would like to know a little more about what this actually means in terms of dollars and cents. Coming back to the University of British Columbia, since you raised it, I have found about the only practical way that we could beat this problem was by what I described as supplementary pensions, which would at least bring the minimum income of every retired person up to a certain figure. The amount of money available to any institution in that category, as you know, is limited, and while we have no legal obligations to these individuals, we felt we had a moral obligation. But I say the only practical suggestion that seems to be reasonable when you keep in mind the kind of salaries they were getting, the kind of rates of interest on their pension payments when they were contributing, is a supplementary payment. Now, if you can provide us with a workable formula to apply to retiring civil servants, then we can look at it in contrast with supplementary lump sum payments, if parliament were willing to accept either. I am sorry, Mr. Chairman, I have taken too much time.

Mr. FITZPATRICK: May I reply to this, sir?

The JOINT CHAIRMAN (Mr. Richard): Yes.

Mr. FITZPATRICK: You may recall that last Thursday the suggestion was made that the finance department look at a number of hypothetical programs for the benefit of this committee. Now, we will be the first ones to say that an actuarial study is definitely needed, but that we in the Professional Institute are not equipped to do this type of study, and I would ask that our suggestion No. 4, be considered as one of the hypothetical proposals.

Senator MACKENZIE: Is that the recommendation or the suggestion?

Mr. FITZPATRICK: This is recommendation No. 4 at the top of page 5.

The JOINT CHAIRMAN (Mr. Richard): Mr. Bell and Mr. Knowles.

Mr. BELL (Carleton): I would like to make sure that I understand the major recommendation which you have made here, and will you follow me as I try to

state it. You propose to take a representative group of classifications as of 1959 and the equivalent classifications as of today and by comparison work out a percentage increase, which would be your index. Am I correct to that point?

Mr. BARNES: Mr. Chairman, this is stage one for the people who are already retired.

Mr. BELL (*Carleton*): Yes. Go ahead.

Mr. BARNES: And then that would bring them up to this present moment, and then they would be hooked on to an automatically moving index which would develop as salaries went up.

Mr. BELL (*Carleton*): Yes, quite, I want to be clear that your index is the percentage of the increase of these relevant classifications from 1959 to the present time, and thereafter it will be a moving index.

Mr. BARNES: This is essentially correct, Mr. Bell. It might not be a straight percentage, it would probably have to be weighted by the number of people in the classes, and that sort of thing, but this would be the basic percentage, yes.

Mr. BELL (*Carleton*): But it would be a percentage?

Mr. BARNES: Yes.

Mr. BELL (*Carleton*): And that percentage would then be applied to the existing superannuation. Why do you choose 1959 in respect of this? Is it your proposal that there be no adjustment for those who have retired since 1959?

Mr. BARNES: It was backdated to 1959 which, of course, was the time of the last pension adjustment, and then it would be applied pro rata to those who have retired since 1959.

Mr. BELL (*Carleton*): Are you proposing an adjustment for those who have retired since 1959?

Mr. BARNES: Oh yes, pro rata.

Mr. BELL (*Carleton*): Then your index would actually be a moving index year by year. It is not 1959. You would then make a comparison of 1960 versus 1967 and 1961 versus 1967?

Mr. BARNES: Yes, this is in essence what would happen. The 1959 calculation would take care of everybody who retired prior to 1959 because we presume that the adjustment took place there, albeit not a very good adjustment, we believe because it cut off at \$3,000. Accepting the fact that there was an adjustment in 1959, we then worked from that point onwards.

Mr. BELL (*Carleton*): Then what do you think the impact of that is, Mr. Barnes, upon those who are in greatest need of assistance? The return made in the house shows that there are 8,995 people who receive less than \$50 a month. The percentage would not likely be more than what, 40 or 50 per cent? The applications, although it may be a very considerable advantage to those who have retired on large pensions.

Mr. FITZPATRICK: Mr. Bell, I would think this problem falls basically into two categories. The first one which is relative to the small pensions of those with short duration in the federal service, is part of the over-all welfare problem that we are faced with today. The second problem is the problem of the civil servant

who has spent most of his professional career in the federal service. He has contributed very substantially on a cost-sharing basis to a program for his retirement, which the government has participated in and agreed with, and if the second part of this program is considered in relation to an automatic adjustment principle on an actuarial basis, the welfare program may in fact, have to be handled specifically by the cabinet in the context of a welfare program, which it is.

Mr. BELL (*Carleton*): Well then, what welfare program does the Professional Institute recommend for those civil servants who would not, on the basis of your recommendation, receive any basic relief?

Mr. FITZPATRICK: The minimum income for Canadians which has been suggested in the past has been \$4,100.

Senator MacKENZIE: Who suggested this figure? Did the government suggest that?

Mr. BELL (*Carleton*): You are not really suggesting that we bring all existing pensions up to \$4,100, are you?

Mr. FITZPATRICK: No. In looking at this problem, Mr. Bell, it is related to what society considers a minimum standard of welfare for Canadians.

Mr. BELL (*Carleton*): I am very sympathetic to this and I believe entirely in an escalation, but I am trying to understand it and understand the basis of the escalation, and you have suggested that there should be a welfare program for those who would not receive the necessary relief by your proposal. I am attempting to understand what that welfare program should be so that this Committee could make a recommendation, because we have as much—and certainly I think more—obligation to those who receive under \$50 a month as we have to those who receive over \$500 a month.

Mr. FITZPATRICK: The statistics that you look at, sir, are those who in effect have elected to take an annuity and as was mentioned also earlier in this session, a large proportion of civil servants elected to take a straight lump sum.

Mr. BELL (*Carleton*): I appreciate that. I know why there are low superannuations. We have explored that. I am simply trying to understand your suggestion that there be a welfare program for these people. Now, what welfare program?

Mr. FITZPATRICK: Well, I might say that the man who took the lump sum may be in a worse position than the man who took the extended annuity.

Mr. BELL (*Carleton*): There is no doubt about that at all.

Mr. FITZPATRICK: You must consider him as well in this context of welfare.

Mr. BELL: Quite. But what is the context of welfare? I do not want to put you on the spot, but I feel that having mentioned welfare as something additional to your proposal that you then should come along and tell us what welfare program you had planned.

Mr. BARNES: I wonder, Mr. Chairman, if the welfare concept of this is specific to the civil service. I think it rather comes back to what the Senator was saying earlier, that perhaps the welfare angle of this is part of a total social problem. The type of formula which we had in mind was based essentially on the

problem of the career civil servant. The fact that a person happens to be drawing a very small pension because he may only have had five years in the government service and has then probably been working for some industrial concern and has another pension, I think is perhaps of lesser importance. If as a result of illness, or any other mishap, their total income is the result of five years federal service, then—

Senator MACKENZIE: I do not mean to suggest that they necessarily have another pension benefit. Pensions are fairly recent in industry. The civil service and the universities were about the first in this field, so I do not think you want to assume that an individual who has been in five years has a reasonable pension benefit.

Mr. BELL (*Carleton*): Turning to another aspect of it, in order to receive this benefit for the future do you think that any additional contribution should be sought?

Mr. BARNES: I would suggest that this is a point which will have to be answered firmly in the light of the actuarial studies which we hope to get from the Department of Finance. As I mentioned earlier, we feel that present serving civil servants also have an obligation toward their superannuated colleagues, and if the adjustment of the interest rate is insufficient to take care of this, then I would say there is a serious case for looking at both the government and the employee contributions to the scheme.

Mr. BELL (*Carleton*): Is it your position, then, that so far as those who have already retired it should be a matter that would be paid for completely by the treasury?

Mr. BARNES: Yes.

Mr. BELL (*Carleton*): But so far as the future is concerned, if the adjustment of interest rate is not sufficient, then you would be prepared to recommend to your members and to this committee an additional contribution?

Mr. BARNES: I think this is a fair summary of the situation.

Mr. BELL (*Carleton*): On the question of the interest rate, then, why do you chose one per cent additional? Is that not really an additional subsidization by the treasury of the superannuation account? And if there is any percentage addition, why should it be one, Why not two?

Mr. FITZPATRICK: The base which we felt was as stable as any base in Canada was the government of Canada direct and guaranteed securities, and these are something in order of $4\frac{1}{2}$ per cent. The thought is that a competitive interest rate for this fund would be in the order of $5\frac{1}{2}$ per cent.

Mr. BELL (*Carleton*): Why do you choose the 1 per cent? Why should there be a subsidization of the superannuation account?

Mr. FITZPATRICK: It is not the subsidization, sir, it is that the fund which is collected does not go through the normal channels of investment that industry can use. Now, in the normal channels of investment while interest rates on certain stocks may be down, others will be up, and the interest on this exceeds the request that we have placed here.

Mr. BELL (*Carleton*): Do I understand that your one per cent is an attempt, as far as possible, to equate the superannuation account to what would be the investment of a private pension fund?

Mr. FITZPATRICK: On the minimum side and to get some constant measure. As the superannuation is actuarially calculated over a longer period of time, one must take a long term program of some kind upon which to base your method of calculating.

Mr. BELL (*Carleton*): I agree. I am simply trying to understand the principle behind it so that we can get a recommendation, and I was asking what principle was behind the choice of one per cent. In other words, I am seeking ammunition in relation to this to try to help build up a case on this.

Mr. BARNES: Mr. Chairman, as Dr. Fitzpatrick has said, this is a rather minimal interpretation of an outside situation. We looked at these figures pretty hard and one could actually make a good case for plus two per cent. We feel that plus one per cent is a very restrained interpretation of a formula which would match the outside pension fund situation.

Mr. BELL (*Carleton*): If this formula had been applied over the last 35 years, which is the working life of a civil servant who completes it, do you know what the average interest rate would have been?

Mr. FITZPATRICK: I think this is one of the reasons why we would strongly suggest that this be put into the hypothetical category from an actuarial assessment, because what should the interest rate be? This is going to be tied very much to the actuarial assessment. What would it have been over the past 35 years? The same thing holds true. We do not have these figures available, and while we can participate in the discussion with actuaries, we are not actuaries.

Mr. BELL (*Carleton*): Oh, I appreciate that. I thought perhaps you might have worked out what the average interest rate was on direct and guaranteed securities of the government of Canada over the past 35 years, and add one per cent to that and be able to give us what the result would be.

Mr. BARNES: It was classed as 4 per cent when we were doing the rough figures and was probably in the $4\frac{1}{2}$ to 5 per cent bracket. It included the minimum period that Senator MacKenzie mentioned of the minimum rates on war loan and victory loan, time which was $2\frac{1}{2}$, so that gives you $3\frac{1}{2}$ per cent, so the absolute floor is $3\frac{1}{2}$ per cent. It is 4 per cent plus.

Mr. KNOWLES: Mr. Barnes and Dr. Fitzpatrick, I would like to leave aside for a moment the question of the welfare aspect as you describe it, and ask a question or two about your general approach. As I take it, both in terms of a long range amendment to the act and in terms of doing something for those now retired, you favour a formula and you have deliberately chosen a formula based on a wage index rather than on a cost of living index?

Mr. BARNES: Yes.

Mr. KNOWLES: While you do provide a cost of living index as one point that might be considered, you favour the other. You are aware, of course, that that was chosen for building up the benefit under the Canada Pension Plan, but as the Canada Pension Plan and the Old Age Security Act now stand, any post-retirement adjustments are on the cost of living index.

May I ask you whether you wish the wage index to be used all the way through or just to the point of getting adjustments? For example, when you talk about the people already retired, at one point you talk about what to do for them now and then what is to happen to them automatically from here on. I want to know whether you want the wage index used all the way through or the wage index to achieve an adjustment and then a cost of living index after that?

Mr. BARNES: Mr. Knowles, we favour the wage approach because this does give one the continuing benefit of increased productivity, on the assumption that we are going to have this continuing increase in productivity. We feel that the wage approach, would be the thing that would give the retired civil servant the benefit of the growing gross national product of the country and the wealth of the labours of his successors to which he has contributed.

Mr. KNOWLES: If I may pick up from Mr. Bell's questioning, then, when you agreed with him that you wanted to establish a percentage between what is being earned on the job now and what was earned then, that is what you were asking?

Mr. BARNES: Yes, sir.

Mr. KNOWLES: That the adjustment be on the basis of earnings rather than just on the basis of the cost of living. In other words, you want retired people to share in the increased standard of living, not just to be able to meet the increased cost of living?

Mr. BARNES: Absolutely.

Mr. KNOWLES: May I now turn to this problem of the effect of a formula which Mr. Bell described, namely, that it can provide utterly too little for those in the lower brackets and allegedly too much for those in the upper brackets.

Mr. BARNES: I do not know if I wish to buy that one, sir.

Mr. KNOWLES: I will come back to that in a moment. Would you advocate any kind of floor or ceiling, that is, having proposed a formula would you be interested in a minimal amount which everyone would get, and would you set some kind of ceiling at which the formula would be paid off, and in doing this would you include such factors as length of service of a retired employee and the formula under which the pension was calculated?

Mr. FITZPATRICK: I will answer that, Mr. Chairman, if I may. To begin with, I would hope that the superannuation program—which continues within the federal service—continues as an incentive program for years of meritorious service. The position that because an employee worked for the government for one year in five years he is entitled to a benefit in excess of his contributions, I do not think this is generally the type of thing which we would want over time. If it is related to meritorious service, yes; he has then earned the right and the government has a responsibility, as have civil servants who are now employed in the service.

In terms of the civil servant who has very few years of service and his pension is exceedingly low on account of this, I would say that there would be many cases in British Columbia where there are no federal civil servants and where the same type of thing would exist. It may be that under the Canada Pension Plan we are setting a minimal type of assistance for Canadians, and this

particular logic in the welfare vein may be the logic to use for those with very, very small pensions. It becomes a prerogative of parliament rather than a negotiated agreement under the Superannuation Act.

Mr. CHATTERTON: Mr. Chairman, did the gentleman just say that there is a minimum provided for under the Canada Pension Plan?

Mr. KNOWLES: To my knowledge there is no such minimum at all.

Mr. FITZPATRICK: Most Canadians are under the Canada Pension Plan.

Mr. CHATTERTON: I thought you had said that the Canada Pension Plan was a minimum pension plan.

Mr. FITZPATRICK: No, not in this respect. A level of living in Canada; a criterion upon which to base a minimum.

Mr. KNOWLES: I am sure there is some minimum, such as for widows and children.

Mr. FITZPATRICK: Yes.

Mr. KNOWLES: You think it would be possible to arrive at a formula based on the wage index, but to build into it some minimal protection, a platform at the bottom, but you would want to take into account other factors such as length of service and formula at time of retirement?

Mr. FITZPATRICK: Yes.

Mr. KNOWLES: I would like to go through that but I must not take too much time. May I ask if you have any comment to make on provisions respecting widows? This is a subject which was dealt with at some length on Tuesday morning, but I do not find widows mentioned in your brief at all. May I just put it on the record that the Superannuation Act provides that a widow will get 50 per cent of the pension of her deceased civil servant husband. The pension for members of parliament provides for 60 per cent, and the group that was before us the other day suggested 100 per cent for the first year after the death of a husband and then a 75 per cent formula. Have you any comments to make on this matter?

Mr. BARNES: Mr. Knowles, the escalation formula which we devised would, of course, apply to the widows. If the pensioner dies, the 50 per cent which his widow receives, would if she lives on for ten years, continue to be adjusted pro rata our formula in the same way as her late husband would have received an adjustment.

Mr. KNOWLES: This would also apply to a widow who is now a widow?

Mr. BARNES: Yes, and the children.

Mr. KNOWLES: This 50 per cent, you could have that become 50 per cent of what his escalated pension would have been?

Mr. BARNES: Oh, absolutely; and the children.

Mr. KNOWLES: What about the 50 per cent factor itself, do you think it should be changed?

Mr. FITZPATRICK: Yes, Mr. Chairman, we would like this to be a matter of collective bargaining. We did not feel at the time this particular brief was

prepared that it would be the type of thing that this Committee would be considering.

Senator MacKENZIE: Following up that point of yours, is there any feeling about the percentage that a single person versus a couple should receive? I take it this has been the basis of the 50 per cent?

Mr. FITZPATRICK: Yes.

Senator MacKENZIE: It costs just half as much for one person to live as two.

Mr. KNOWLES: There is something in the argument that every man will leave a widow but no woman will leave a widower. I will not pursue that, I quite agree with the suggestion that this could be a subject of collective bargaining.

Mr. Chairman, I would like to ask a question or two, and perhaps that is a euphemism for saying I want to say a word or two. On the point that Senator MacKenzie and you, Mr. Barnes, raised about people with pensions a little better than the ones at the bottom, I do not think I need to beat my breast and say that I am mainly concerned about those with the small pensions, because I am. I have been at it too long to have to argue that. But I also know that people on pensions of \$150 or \$200 a month that they have had for 4, 5 or 10 years can really be in just as straightened circumstances as people with smaller pensions. The cost of living has gone up; the Jones' are living better all around them. Do we not have an obligation to enable people to continue to have the kind of life, if you will, that they had on retirement. There is a cut-off some place. Maybe there is a cut-off at the point of the \$8,000 or \$9,000 pension that some people in this room can look forward to. But do we not owe something to people even above the very low?

Mr. BARNES: Well, I would like to emphasize that we did not like the idea of a ceiling because, as in the sort of case which I illustrated, the man who retired 20 years ago with a pension of \$3,000 a year was then relatively in the same position as a man who might retire today with \$8,000 a year. We feel that he is in a well-cared-for position. But 20 years hence the colleague who retires with \$8,000, I venture to suggest without any great economic prognostications, will not be as well off as he is today. This is why we feel that some account should be taken of the need to keep the man at least within sight of the living standard that he had when he retired and that his colleague who is now doing his same job has. Take the situation of a man who is living on \$3,000 a year, and after 20 years retirement meeting—as has actually happened in several cases at Institute meetings—the man who is now doing his job and getting \$20,000 a year. We feel this is not a supportable situation.

Mr. KNOWLES: Generally speaking, do you feel that the Superannuation Act, as it now operates, is pretty good in terms of the pension that an employee of the government can retire on?

Mr. BARNES: At the moment of retirement.

Mr. KNOWLES: The problem is what happens five or ten years later, and you feel that as an employer the government of Canada has some obligation, as you agree other employers have?

Mr. BARNES: Yes.

Mr. KNOWLES: Just one more question, Mr. Chairman, although I suppose it is one that might lead to other things. Would Mr. Barnes or Dr. Fitzpatrick like to comment on Mr. Ted Clarke's explanation to us the other day of the way in which an increase in the rate of interest paid on the money in the fund could result in a declining value of the fund? I hope I have not misstated Mr. Clarke's position. I have studied it and thought about it a good deal since. I think I understand what he was driving at. Would you like to comment on that in relation, of course, to your suggestion that there be a higher rate of interest? Except for a supplementary that might follow, that is my last question, Mr. Chairman.

Mr. BARNES: I feel, Mr. Chairman that the analogy which you used at the time that Mr. Clarke was making his presentation was perfectly correct. He was looking at it from the point of view of the mortgage holder, and the view that we are taking is that the fund is essentially established from the partial earnings of the public servant while he is employed and it is therefore in essence funds in trust for his future well-being. And as such, an increase in the interest rate paid on that fund is an increase in the total resources available for his future well-being. I think we are looking at it from the opposite side of the coin to Mr. Clarke. An increase in the interest rate paid on the fund is an increased asset available to the public servant on his retirement.

Mr. KNOWLES: You would agree with Mr. Clarke that if the interest rate being paid were increased and no other changes were made, such as in the actuarial calculations or the amount of pensions to be granted to civil servants when they retire, that the result could be that the government would have to put in less money by way of make-up grant, and so on the average the effect is zero.

Mr. BARNES: Absolutely.

Mr. KNOWLES: In other words, if there is going to be an increase in the interest rate, that increase is going to have to be earmarked.

Mr. BARNES: Oh yes.

Mr. KNOWLES: Almost put in a separate fund, otherwise Mr. Clarke's point would be to no advantage.

Mr. BARNES: Or that the conditions applicable to the fund would have to be changed. In other words, the payment rates would have to be changed. If the definitions were left exactly as they were, then more interest means less direct support, but if the conditions applicable to the fund were modified, as we have suggested, then of course the original parameters are changed and Mr. Clarke's presumption is no longer correct.

Mr. KNOWLES: Then in either case we are asking that the government as employer, make available more money?

Mr. BARNES: Yes.

Mr. CHATTERTON: Mr. Chairman, Mr. Knowles has already covered some of the questions I had in mind. In your proposed formula, Mr. Barnes, as I understood it, you were going to take the average salaries of a group in 1959, as compared with the salaries of a same group today, and provide an index based on that relationship?

Mr. BARNES: Yes.

Mr. CHATTERTON: Should that date not be 1953, because the 1959 Public Service Superannuation Act provided for increases only to those who had retired before 1953, am I right?

Mr. BARNES: Yes.

Mr. FITZPATRICK: This is a valid point. We took 1959 as a base year upon which adjustments could be made. The reason for this was that it was in this year that this same question reared its ugly head. Now, this may not be a very valid year.

Mr. CHATTERTON: You see, if you take 1959 you will miss the group that retired between 1953 and 1959.

Mr. FITZPATRICK: And the index from 1953 to date may give a better history on which to base this program than 1959.

Mr. CHATTERTON: Would you say that it would be inequitable to provide an index for escalation of future pensions if the existing pensions were not first of all updated?

Mr. BARNES: Of yes. I think the immediate and urgent requirement is the people who are on pension as of this moment. There is no question about the priority, but our present suggestion is that we should get away from this patching principle, which is all too common in so many approaches to this sort of thing, and not have to come back and come back. Having once corrected the existing situation, let us get it on the rails and let it run. I think this is the essence of our thought. We would agree that the immediate problem is those people who are getting superannuation cheques of less than useful size at this moment.

Mr. CHATTERTON: I think you gave the answer to the next question but I just want to confirm it. Do you think that any index or any formula that is devised must be based to some extent on the number of years of service given by the retiree?

Mr. BARNES: Yes, I think we would definitely say that.

(Translation)

Mr. ÉMARD: Mr. Chairman, first of all, I want to congratulate the Professional Institute of the Public Service of Canada for having given its support and experience to the retired civil servants. I hope that other Associations will do likewise.

I understood the other day, that it was very difficult for the Public Service Associations, because of the small number of their members, to really present their case as well as it should be.

In the Brief which was read this morning, I was struck by certain statements, which to my mind, sum up the problem with which we are now faced. I therefore take the liberty of coming back on it. The first thing which struck me was, first of all, on Page one: "Our universal concern has been to ensure an equitable distribution of rising incomes and the widest participation in these improving standards". What follows is most important: "However there is one

category of people who, in no way, derive any benefit from these improved conditions". I think that this sentence is very important in the case now before us, because it shows that retired civil servants have been abandoned. We also have to consider when readjustments have to be made, that "Erosion of purchasing power has hit hardest those people living on fixed retirement incomes. The longer one lives after retirement, the greater the erosion". This is also very important.

Thirdly, "the procedure for adjusting pensions adopted by the Government in 1959 has proved inadequate... If our superannuation plan is to meet its theoretical objective of providing a retired public servant with a standard of living related to the standard he enjoyed before retirement, the plan must make some direct provision for post-retirement adjustments in benefits. A piecemeal approach to pension adjustment is unsatisfactory".

As I was saying a little while ago, we cannot help but feel that there was discrimination towards the retired federal civil servants. One proof of this, is that Old Age Pensions have been increased on several occasions and the veterans' pensions were also increased. The only increase for retired civil servants was in 1959.

I do have some questions to ask. First of all, as far as readjustment, with which we are dealing at the present time, I would like to know where you intend to get the money for this readjustment? Should it be taken from the present Pension Fund, or from the Public Treasury?

(English)

Mr. BARNES: As far as the first stage is concerned, that is, the people who are already on superannuation and have to be brought up, we feel that this should be a charge on the treasury, but thereafter the maintenance of this level, both for people already retired and people about to retire or to retire in the future we feel this should be taken care of by the increased interest rate, and if that is not sufficient, then by a review of the contributions paid both by the government as employer and the employees still in service.

(Translation)

Mr. ÉMARD: If we come back to what you mentioned; "The method of readjusting pensions adopted by the Government in 1959 was ineffective". I would like to know if this method was ineffective or has it become ineffective since then. You mean that since 1959, the method has not taken into account the increases which have been given since that time, or do you mean to say, that this method in 1959 was not effective to make up for the readjustments that should have been carried out?

(English)

Mr. BARNES: Mr. Chairman, essentially the 1959 adjustment was perhaps what one might describe as a minimum patch to adjust the situation to a tolerable level in the lower pension ranges as of that time, but very soon that patch was eroded—

Mr. KNOWLES: More people retired in 1953.

Mr. BARNES: Yes.

(Translation)

Mr. ÉMARD: A little while ago you spoke of establishing a formula based on present wages, and wages paid in past years. According to that formula then, what would happen to a pensioner who now receives \$20 a month?

(English)

Mr. BARNES: Well, as our concept of the formula stands at the moment, the adjustment on his \$20 a month that he would receive would be derived from this index figure of the movement in salaries across the service from 1959 to 1967, which is probably in the order of 5 or 6 per cent per year, so he would probably get another \$10 a month. This is a very rough example, but it generally indicates the order of magnitude involved. I do not know Dr. Fitzpatrick's views.

Mr. FITZPATRICK: My comments are not directly related, they are only incidentally related. In Centennial Year particularly the government of Canada can be proud that for over a hundred years it has given its employees the opportunity to earn the right to participate in an agreement for their future welfare. This is the type of thing that I think we would want as the nuclei of the program under superannuation. You may recall that a hundred years ago the civil servant was contributing 2 per cent and he was receiving 2 per cent of his income based on the best three years. That was a hundred years ago. Today we are paying 6½ per cent, the government is making an equal contribution and it is based on the best six years. Now, I think over time the employee in effect has been anxious to earn this right in participating in an agreement for his future well-being. Certainly in industry in the future—as in the government itself—while many industries do not have the history that government has, which goes back a hundred years in terms of having this superannuation plan, many industries have now reached the position where a superannuation scheme is absolutely necessary. The government of Canada realized this a hundred years ago, and should be commended in this regard.

(Translation)

Mr. ÉMARD: Have you ever made any comparisons of benefits received under the Public Service Plan with those received under an industrial plan?

(English)

Mr. BARNES: We have looked at a certain number of these and, as far as basic benefits go, the 70 per cent target is now being fairly well accepted. There has been quite a lot in the *Financial Post* recently on this subject which you might have seen. The 70 per cent target seems to be fairly well accepted and, as Dr. Fitzpatrick has mentioned, there is now a growing realization of the need to superimpose an escalation formula to maintain its reality. As far as the basic benefits of retirement at the moment are concerned, this is a comparable scheme although it is relevant to note that the 6½ per cent that the public servant pays is at least as high and tending to be rather higher than the industrial contribution rate. Relative to his colleague in industry. The public servant does pay for his pension.

(Translation)

Mr. ÉMARD: Are there certain benefits of the plan that strike you as being inferior to those of industrial plans?

The Co-CHAIRMAN (*Mr. Richard*): Would you repeat the question?

Mr. ÉMARD: Yes. Do some benefits of the Public Service Retirement Plan strike you as being inferior compared to industrial plans?

(*English*)

Mr. FITZPATRICK: A number of the industrial plans are based on a profit-sharing basis. Now, in the federal service the closest thing that we can come to in this regard is something on a wage-sharing basis, and for this reason the recommendation of the Professional Institute is that escalation be based on a wage index. This then gives the direct relationship of the past employee to the present employee. His counterpart in industry may, in fact, be in a profit-sharing program.

Senator MACKENZIE: In terms of the present turnover, would it be comparable to apply a portable pension within industry? It is the exception to have anybody stay in the same job and in the same place, for 35 years, so if he is to benefit from one good pension scheme he would have to carry it with him. How far is that the case at the moment? I believe the federal plan is portable.

Mr. FITZPATRICK: I understand from the discussion of last Thursday that there were negotiations with 25 or more organizations, something of this order.

Senator MACKENZIE: I am not sure how many of them were industrial.

(*Translation*)

Mr. ÉMARD: On Page 3 you mention an annual progression of 5.5 per cent of the economy's product, bringing your rate of growth of the labour output to 2.4 per cent. What was the reason for mentioning these figures? Do you intend them to be used in compiling a readjustment formula?

(*English*)

Mr. FITZPATRICK: The purpose was in fact to give some authoritative source on how the rate of growth in the Canadian economy is likely to change over a period of time. It would be our premise that wages would in fact reflect the output in the Canadian economy and the changes that are likely to take place. This relationship is not always a direct one, sometimes it comes in spurts, and there has been the odd strike from time to time to sort of speed it up, but there is supposed to be a relationship between wages paid and the GNP of your society.

(*Translation*)

Mr. ÉMARD: Among the methods of adjustment which have been suggested since the Committee has started sitting, was, for instance, periodic reviews, suggestions and for automatic adjustment. Your Brief points out that the plan should be part of collective bargaining. There has been a suggestion for a fixed sum. Among these suggestions, I think that some are probably beyond the mandate of our Committee.

For instance, we cannot suggest that the plan comes under collective bargaining. We certainly cannot suggest, either, that there be readjustments, automatic adjustments because I would imagine that if we were to suggest automatic adjustments, this would be creating a precedent for what is to happen in the plan eventually and, if it were to be an automatic adjustment for pensioners who were already retired, the first thing that everyone would say was that this

automatic adjustment should belong to the plan, should be part of it and should continue. I do not think that, at the present time, we can do this. I think that what we need to do, would perhaps be to have a review according to the formula suggested, either from the Fund itself or from the Public Treasury. What is your opinion? Would members of the plan who are paying into it at the present time consent to pay for an automatic adjustment every year, for instance, for those who are retiring?

(English)

Mr. BARNES: It is difficult, Mr. Chairman, to speak for the public service at large, but I think in the professional area there is a realization of the vital importance of a viable and acceptable superannuation plan, and I should be very surprised if there was any large area of disagreement in the professional sector of the public service.

That would be my view. I do not know if Dr. Fitzpatrick could add anything.

Mr. FITZPATRICK: I would like to say that we would like to be presented with this proposal by those who are considering escalation. We would like the privilege of reviewing it.

(Translation)

Mr. ÉMARD: At the present time, is the government's contribution equal to that of industry?

(English)

Mr. BARNES: I think that the membership would look sympathetically at a proposal that any residual cost should be shared between the employer and the employee. I think that our members would be seriously interested in considering such a proposition.

The JOINT CHAIRMAN (*Mr. Bourget*): Do you think it would be fair for the actual civil servants who pay for those who are now retired if you adjust the plan to what you say? Do you not think it would be a matter for the government itself to pay it and not ask those who are actually employed by the civil service to pay for that?

Mr. BARNES: Yes. This is a sort of phase one. Applicable to the existing superannuate who, we feel, should be looked after from the public treasury, but from the date of such correction onward one then comes to what we call phase two of the plan, that is, keeping both the pensions of the retired people and the rest of us, in due course, in line. This might then well be a combined operation.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker.

Mr. WALKER: Mr. Chairman, what are our terms of reference? You wandered into a cave and there is one doorway, and once you get in there it opens up into eight or nine alleyways. I do not think there is any question about this committee coming up with a recommendation. I think we will, but it is how and what recommendation, and I would like to know. We have been talking about two or three things this morning; we have been talking about the present retired superannuates and we have also been talking about the fund and how it affects the people who are now employed and who will be retiring. Were we given any restrictive terms of reference to deal with one particular group? I am prepared

to discuss all aspects of this—past, present and future—but it would be helpful to me if I knew what our terms of reference were.

The JOINT CHAIRMAN (*Mr. Richard*): I read them before and I think they require more than reading, they require an understanding, because this relates to the problem as it was raised from time to time in the House of Commons and in this Committee. While the terms of reference say that we are empowered to inquire into and report upon the matter of the pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act, I think it is clear in the first place that this committee was formed at this late date to look into the problem of those who have been retired at the present time and who are receiving pensions which are considered, in some cases at least, not sufficient, whatever way you interpret that word. On the other hand, we did invite groups to make representations and they have done so. In my opinion they have covered the situation of retired civil servants very well, but naturally if they tie in their expectations—

Mr. KNOWLES: We will all be retired some day.

The JOINT CHAIRMAN (*Mr. Richard*): They would not like to be in the same situation in the future, even if the committee does not make direct findings—

Mr. KNOWLES: They will be retired before we finish our job here.

The JOINT CHAIRMAN (*Mr. Richard*): —because I am sure that is a matter that will have to be determined by government policy and it will have to be discussed at length. Others would have come before this committee if they had thought that the problem was so large. I think it is very important at the present time for us to realize, in finding a solution to this problem, that it should not be unlike the type of solution we would like to find for those in the future—I think that is a good way to put it—and that it may help us to treat fairly those of the past in the same way as we would like to treat those of the future, am I right?

Mr. WALKER: I would like to have this point clarified again because, as the witness has said, there are two problems involved here. You have one problem for which a suggestion has been made, and other witnesses that were here suggested a lump sum to take care of past ones, and then we have been going on into the future with another formula. So, there are, in fact, two things that we are discussing. I know they are related, but I am glad to have the understanding that our particular urgent problem, as I understand it, is for those who are now retired on pensions that do not meet current needs, as opposed to when these people were retired—

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, if I may interject, I think you will find—and I do not want to be the solicitor for the group—that the solution which they suggested, as far as the base of it is concerned, is always more or less the same for those who are already retired and those who would be retired. As it implies, it is only where the source of funds would come from, but their solution is standard in both cases.

Mr. WALKER: I did not gather that, I thought that with the retired there was something special and extra that had to be done prior to that, a base established, and then your over-all formula for the past and future goes into effect, right?

Mr. BARNES: That is correct. It is bringing up to date those who are in arrears and, thereafter taking off in common.

Mr. WALKER: May I just ask this question. There are so many conflicting principles which are really basic principles involved in a number of the suggested solutions. Am I right in assuming from what you said that you are anxious to preserve the pension benefits in relation to wages. In other words, there is no such thing as when everybody retires they will all get the same wage. Have you thought in terms of the adjustment for those who are now retired on superannuation in terms of cost of dollars? In other words, if someone retired 15 years ago at \$50 a month—and those were 1952 dollars—have you thought in terms of relating those 1952 dollars to today's dollar and making the adjustment? This preserves the equity that people have earned in their pension, have you thought of bringing that up in terms of constant dollars?

Mr. BARNES: Mr. Walker, this is in fact alternative no. 1 in our list of four. This, as you say, preserves the equity but does not give these people any share in the per capita increase in the gross national product of Canada over the last 15 years. We feel that they deserve some recognition beyond the maintenance of their equity; that they deserve to share in the growing well-being of the country.

Mr. WALKER: You are generally in favour of whatever adjustments are made and I am speaking now of the past and the future—and you are in favour of a percentage increase right across the board rather than a minimum base for all people?

Mr. BARNES: Essentially yes, except as Mr. Knowles mentioned, where there is this question of an absolute floor and where the minimum would taper down to something meaningless, then there might be a valid argument for a significant minimum thereon related to the formula.

Mr. WALKER: I do not know whether you can answer this question or not, and perhaps the actuary would have the information. Do you know if the government pays interest on its obligation—I do not call it a contribution because it is not there in a separate fund—to the fund or do they just pay interest on the employees contributions?

Mr. FITZPATRICK: I understand, sir, that if the money is drawn out in a lump sum there is no interest paid, not only on the government's side but on the employee's side as well.

Mr. KNOWLES: Do you mean on the money that is in the fund?

Mr. WALKER: As I understood the actuary who was here the other day the funds are drawn out by only for immediately payment. In other words, they are not earning in a separate fund by itself.

Mr. FITZPATRICK: If the employee elects to draw his money out he gets his money without interest.

Mr. WALKER: I realize that.

Mr. FITZPATRICK: It may still stay in the fund, thought.

Mr. WALKER: That is right, but on the books, if the employee's contributions have amounted to, and I just use the figure of \$1,000,000, the government has an obligation when it is needed, I presume, to contribute \$1,000,000 apart from this?

Mr. FITZPATRICK: Yes.

Mr. WALKER: Does the government pay interest on its own obligation to that fund?

Mr. BARNES: On its own payments that it made into the fund, yes, both sections.

Mr. KNOWLES: It pays interest quarterly on the amount that is in the fund?

Mr. BARNES: Quarterly, yes, at one per cent.

The JOINT CHAIRMAN (Mr. Richard): Senator Denis.

Senator DENIS: Taking into consideration your recommendation no. 4, which is the one you prefer, I would like an example of what it would give. Let us suppose, and you correct me if I am wrong that a clerk 15 years ago had a pension based on a salary of \$3,000, and today the same position pays \$6,000, it means that there has been an increase in the wage by 100 per cent. So you mean by your recommendation that that retired person, who was entitled at the time to, let us say, a pension of \$2,000 a year would get an increase of 100 per cent, which would be \$4,000? I would like to know if I am correct in interpreting your recommendation?

Mr. BARNES: Senator, this is the basic approach. It cannot be based on one particular clerk. You would not go back and say, "This man was a clerk, grade 3, and we envisage a composite index representing key classes across the service".

Senator DENIS: It is just an example I gave you, but that would amount to what I have just said?

Mr. BARNES: Yes.

Senator DENIS: Now, what would happen in the case of a retired person who had so small a pension that they accepted a lump sum in settlement? It happens sometimes that a pension, for instance, is below \$10 a month. You could make an arrangement with the government under our set-up where, instead of receiving \$10 a month pension, you can accept a lump sum in order to go into business in a small way. It depends on longevity.

Mr. FITZPATRICK: We would hope, Senator that the impact would be that with the type of suggestion we have made here more people would be encouraged to take their retirement as superannuation rather than in a lump sum because—

Senator DENIS: Yes sir, but I am talking about those who have already accepted a lump sum, I am not talking about the future I am talking about those who at the present time, instead of accepting a pension of \$10 a month, have accepted or they have settled for a lump sum. What would happen in those cases?

Mr. BARNES: This would be a difficult case, I think, because one does not know what they have done with it. They might actually be better off as a result of having put that money into a good growth stock, if he knew one. As much as one would like to see some sort of mechanism that would correct this, it is rather difficult, I think, to envisage a system which could take care of such a situation.

Senator DENIS: But that would not be fair to those who have accepted a lump sum. Those who have accepted, let us say, \$15 a month will have their

pension doubled under your recommendation, while those who have accepted the lump sum are without any advantage under your recommendation.

Mr. BARNES: I am sorry, perhaps I misunderstood you. You were thinking of people who commuted their pension, not merely withdrew their own contributions.

Senator DENIS: No.

Mr. BARNES: They commuted their pension. Oh, I think there would have to be some adjusting formula.

Senator DENIS: Now, what do you say is the average age of the retired civil servant?

Mr. BARNES: The age of people who are now retired?

Senator DENIS: Yes.

Mr. FITZPATRICK: I would not have that.

Senator DENIS: Would you agree with me that most of the retired persons are 65 years of age or more?

Mr. BARNES: Yes.

Senator DENIS: Well, you say in your brief, of course that we are all looking to the welfare of the Canadian people, including the federal civil servant and this also includes the other citizens of Canada—from whatever source the money comes from in the government. You say on page 3 that reviews of plans are often either ignored or treated in a patch-up manner. Will you agree with me that in all other kinds of social measures which have taken place that the retired civil servants have benefitted as well as the other citizens? Let us take, for instance, the increase in the old age security. Instead of having to be 70 years of age when you receive \$75 last year it was 69 today it is 68, and it will be 67 in 1970. All those who are aged 65 will receive a pension of \$75, and that includes the retired civil servant. Is that what you call a "patch-up" manner in looking after—

Mr. BARNES: Well, Senator, I think this reference to a "patch-up" manner was a reference to the sort of thing that happened in 1959. There was a sort of "once and for all" correction applied to a situation without the continuing mechanism. With regard to the Canada pension and similar social security arrangements, we feel that there is a case here for looking at the government in two aspects. First, the government, as the government, looking after the social welfare of all the citizens, and then the government in its special role as the employer of the civil servant, and I think the angle we are concerned with at the moment is the government in its specific role as the employer of the civil servant. This is where we feel there is a responsibility towards the civil servant per se, rather than merely as part of the total social service.

Senator DENIS: So you think that the government should be more generous than any of the other employers in Canada, is that what you mean?

Mr. BARNES: We do not feel that they should be more generous; we feel that this is the growing situation outside. We feel that the government should be what government policy statements have defined as a good employer, and what

we are asking is that they should do to their employees, the public servants of Canada, what good employers are doing to their employees in other parts of Canada.

The JOINT CHAIRMAN (*Mr. Richard*): I would not want Senator Denis to destroy my speeches. For the past twenty years I have said that the government should be the best employer.

Senator DENIS: One reason is that they had to guarantee the old age pensioners \$105, and this also applies to the retired civil servant, so he would get part of it, but if you just gave the figure of \$20 a month pension as though it were the only money received by the person from the government, that is not absolutely correct. You will agree with me that all the other citizens of Canada aged 67 and 68 next year are guaranteed by the government a minimum revenue of \$105?

Mr. BARNES: Certainly, Senator, but I would, I think, again stress the fact that this is the government in its role as the government of Canada, not in its specific and special role as the employer of the civil servant. Everybody has an employer of some sort or another or most people other than those in private practice—

Senator DENIS: We have an expression here, you like the meat we are serving you but you do not want the dessert.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Hymmen.

Mr. HYMMEN: Mr. Chairman, I think we will all agree that this is an extremely difficult problem, the extent of which is as reflected in the rather inadequate or patchwork job done in 1959, and I think Senator MacKenzie expressed our concern over this—he certainly expressed my concern—in his initial remarks. While the present government and previous governments have tried to be good employers, the very fact that we are bringing in bill C-170 to provide for collective bargaining is one example of this but, in essence, there are well over 19 million people in this country who are the employers of the civil servants, not the government and not this parliament, and many of these people have retired on contributory pensions plans through industry, private pension plans or without any pension plan at all. Now, I know when the Canada pension plan was introduced you had to start somewhere, and I am quite sure that the members of parliament would have liked to have made this plan retroactive and that it would take place immediately the bill was passed, but on a contributory basis this was not possible. I only have one question and it has not been asked before. Do you believe there is any obligation on the part of a private sector or a private carrier to upgrade existing plans or no pension payments at the present time? This is a question involving the private sector irrespective of any obligation on the government.

Mr. BARNES: Mr. Chairman, whether or not there is an obligation, the fact is that in more and more collective bargaining agreements that are now being entered into pension adjustments are coming in and are being accepted, and as new schemes are being developed they include escalation clauses. This is the pattern of the good employer at the moment. It is being done whether there is actually an existing legal obligation to do it or not.

Senator MACKENZIE: Does this apply to the retired people?

Mr. BARNES: I am not too sure. It applies to some of the steel people and automobile companies, I believe.

Mr. FITZPATRICK: It would relate to the tenure of their contract when they retired.

Senator MACKENZIE: But those that are off in the wilderness?

Mr. FITZPATRICK: I am not sure, sir.

Mr. BELL (*Carleton*): There are quite a number of companies that have adjusted it.

Senator MACKENZIE: Oh, I see, but people who were retired before the pension plan was instituted?

Mr. FITZPATRICK: Yes.

Mr. KNOWLES: Yes, there are some.

The JOINT CHAIRMAN (*Mr. Richard*): Senator Fergusson.

Senator FERGUSSON: Mr. Chairman, most of the things I was interested in have been covered, but there is one question that I would like to ask. Of the four recommendations that were suggested on pages 4 and 5, why did you choose the fourth one over the third? That seemed to me quite a reasonable suggestion.

Mr. BARNES: Would you like to answer that question?

Mr. FITZPATRICK: The salary of the final grade of the employee is a more difficult thing to maintain as an index than the wage index based on, let us say, the major civil service classifications.

Mr. BARNES: Ideally, Senator Fergusson, I think there would be a case for literally doing what was suggested a while ago, matching class 3 for class 3, but this would be terribly complicated. Furthermore, under a dynamic reclassification system a lot of classes from which these people retired in, let us say, ten years ago just do not exist any more, and classes in which people may retire today probably will not exist ten years from now, hence our concept of a more broadly based index which will be simpler to operate and also have a firmer continuity from the base line.

Senator FERGUSSON: I only have one further short question. It has to do with the last paragraph on page 3 where you refer to a study made in the United States of eleven countries and you say they have adopted the principle of adjusting old age pensions. Does this study include civil service pensions such as we have been studying? If it does, has there been such an adjustment made by any other countries similar to what we have been discussing?

Mr. FITZPATRICK: I may be corrected on this, but I believe the finance department has in fact done a study very much along these lines. I may be wrong. The old age pension adjustment principle, as I understand it in this particular report, was over-all.

Senator FERGUSSON: You are referring to the study and I have not seen it. I thought perhaps you would know about this.

Mr. BARNES: Senator Fergusson, two of the very relevant examples are, of course that both the United States and the United Kingdom governments have introduced specific adjustment procedures for their civil service pensions.

Senator FERGUSON: Thank you, that is all I wanted.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, if I understood Mr. Barnes correctly, in reply to a question asked by Mr. Walker, he said that he was in favour of a certain across the board percentage increase. If this were the case, I do not understand why this would be in line with formula number four, which was suggested and which, if I understand the formula correctly, would be a decreasing formula since 1953 or 1959.

(*English*)

Mr. FITZPATRICK: I think you are right, sir. The basis would be an index basis rather than a percentage basis. Your point that the percentage increase across the board may not in fact meet this criterion at all is very valid here.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell.

Mr. BELL (*Carleton*): Mr. Barnes, perhaps you could help me on the principle of no ceiling in relation to the application of your index. I have no difficulty in connection with it for the future, where publicly it would be financed from contributions. I do have a little difficulty with it in connection with the payments directly from the treasury, and I was just calculating that one of the senior deputy ministers for example, who retired with 35 years service in 1960, would probably have a six year average of \$18,000, which would give a pension of \$12,600, and I think your index would be somewhere of the order of 50 per cent. That would give to this person an increase from the public treasury of \$6,300.00. Now, I represent a civil service riding, but I think I might have some difficulty in justifying to the civil servants of my riding a payment direct from the public treasury of \$6,300 to any one particular individual. Now, the problem that I have is the lack of ceiling, not so far as the future is concerned where it is based on contribution, but so far as the past is concerned.

Mr. BARNES: I quite appreciate the political difficulty of this, but on the basis of equity I think it would be difficult not to support it because the present salary of a senior deputy minister, of course, is some \$10,000 a year more than that at which the man retired and where does one say that expediency will take over from equity? I think it would put us in a very difficult position to say that up to a certain level it does not really matter if it goes beyond there, because this erosion is taking place very rapidly. The case of a man who retired 20 years ago on \$7,000 a year is perhaps comparable to your deputy minister retiring three or four years ago on \$18,000 a year, and yet today the \$7,000 a year income and the resultant \$3,000 a year pension is very small.

Mr. BELL (*Carleton*): I think the great majority of my civil servants make less than \$6,300, and I certainly would be in difficulty in justifying a straight handout from the treasury of amounts like that.

Mr. FITZPATRICK: Mr. Bell, I would submit that one guideline that should be considered by this committee is that present superannuates who have devoted a major portion of their career to the federal service should not be allowed to have their pensions outstripped by pensions currently being awarded for comparable levels of work and responsibility.

Mr. BELL (*Carleton*): I would agree with that as a principle. I think when it comes to the appropriate time I will have to get you on the platform.

The JOINT CHAIRMAN (*Mr. Richard*): I am sorry to inject a personal note, but I am sure my mother would appreciate this very much because my father was a deputy minister and her pension as a widow has been \$150 a month all along, and according to your calculations under this present scheme she would be well off at \$9,000 a year.

Mr. PATTERSON: Mr. Chairman, I would like to go back just for a moment to the replies that were given to Mr. Emard when he asked questions relative to the comparisons between the federal and industrial plans, and I think Dr. Fitzpatrick in replying mentioned the fact that in some of them profit-sharing was a factor. I do not think he is suggesting that this should be incorporated into any plan that we have here because if it were so, based on the way governments have operated since confederation and if this principle were to involve the deficit sharing as well, it would be catastrophic, I think, as far as the civil service is concerned. However, just to fill in a small gap here, I believe Dr. Fitzpatrick stated that the target in industrial plans was 70 per cent of the income. Am I correct in that?

Mr. FITZPATRICK: Mr. Barnes actually made the comment.

Mr. BARNES: I think the recent literature has indicated that 70 per cent is now recognized as the figure.

Mr. FITZPATRICK: For the individual who puts in 35 years of service.

Mr. PATTERSON: This was a target. Could you indicate just how many have reached that target now and have incorporated this? Is it a substantial number of industrial plans?

Mr. FITZPATRICK: We would not have the information specifically on numbers. We do have some of this information. It is the goal. As in many cases, the federal government was a leader in 35 years of service giving a maximum of 70 per cent benefit. Few civil servants, of course, have received this in the past.

Mr. PATTERSON: Well, I wondered about the industrial plans. How many have reached the target and are now paying 70 per cent?

Mr. BARNES: We do not have this data in precise form. Perhaps the Department of Finance might have it. The published literature does indicate that there is a fairly significant move in this direction. It is now a good employer target.

Mr. PATTERSON: But is there a significant number who have reached the target, or have any reached that target now?

Mr. FITZPATRICK: The average would be over 60 per cent.

Mr. PATTERSON: But have any reached the 70 per cent that you know of?

Mr. FITZPATRICK: I would have to look into that. I would not quote company names at this time without having a record of them.

Mr. PATTERSON: Well, I just wondered if any, regardless of names, have reached that target?

Mr. BARNES: Oh yes, the literature certainly indicates that some have but, like Dr. Fitzpatrick, I would not like to be precise as to quantity.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Chatterton.

Mr. CHATTERTON: The adjustments that have been introduced to retired people in some of the other pension plans take into account the income from old age security. Have you thought about that or are you recommending that that be considered?

Mr. BARNES: We have not, Mr. Chatterton. We look upon this matter as one concerning the government in its role as the employer.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any further questions? Mr. Émard.

• (11.40 a.m.)

(*Translation*)

Mr. ÉMARD: I wonder whether Mr. Barnes could tell us, whether the Department of Industrial Relations of Queen's University has published a study since 1956, a more recent one than the 1956 Study on Pension Plans?

(*English*)

Mr. BARNES: Mr. Émard, I am not aware of a more recent one. If there is, I would be awfully interested in seeing it because it would be a very good effort if it came from Queens. I am not aware of a more recent one.

Mr. WALKER: One quick question, Mr. Chairman, if I may. You are more in favour of recommendation No. 4 than anything else?

Mr. BARNES: Yes.

Mr. WALKER: Have you worked out figures on a superannuate presently getting, say, \$35 a month federal pension? On your formula would it raise this amount significantly at all? Would it double it?

Mr. BARNES: In the order of 50 per cent.

Mr. WALKER: I notice on the chart you have a great number of superannuates with pensions of less than \$50 a month, so with formula No. 4 it may bring those up to \$75 a month. We still have a welfare problem in that group.

Mr. BARNES: Yes. I think this is where Mr. Knowles' platform at the bottom comes in and whether it should be tapered down to a diminishing point is a relevant point.

The JOINT CHAIRMAN (*Mr. Richard*): Do you have any other questions? Thank you very much, Mr. Barnes and Dr. Fitzpatrick.

The next meeting will be at the call of the chair, but I think I may want to call the steering committee on Monday, but I will give you due notice in order to arrange the future meetings.

Mr. BELL (*Carleton*): How many requests to present briefs have we had?

The JOINT CHAIRMAN (*Mr. Richard*): One more, the Alliance, but they are not ready.

Mr. KNOWLES: May I ask what has happened to the announcement you made the other day that the government might move to enlarge our terms of reference to include retired persons of the armed forces and the RCMP?

The JOINT CHAIRMAN (*Mr. Richard*): I do not know if Mr. Walker could speak to you on that.

I did speak to Mr. Benson that it was the wish of the committee.

Mr. KNOWLES: That this would be attended to?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I did speak to him.

Mr. KNOWLES: I realize this might lead to more witnesses wanting to come before us but I do not think that is necessary. I think it would follow that whatever we do for one group of retired government employees we would want to apply to the others.

The JOINT CHAIRMAN (*Mr. Richard*): I was talking to some representatives of National Defence and I think it is the opinion that it is more to allow us to have the power to make a recommendation, which would have the same effect for the National Defence employees and the RCMP, rather than to hear briefs on their behalf. I think that was the suggestion of Mr. Benson at the time.

Mr. KNOWLES: But you are attending to the matter?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. I am.

Mr. KNOWLES: It is not necessary to ask a question in the house?

The JOINT CHAIRMAN (*Mr. Richard*): Oh, I am always happy to have the opportunity to be in evidence.

Mr. BELL (*Carleton*): I wonder whether Mr. Hart Clark has as yet had an opportunity to prepare the material on what has been done in other countries? I think it would be most useful if the members of the committee could have this as soon as possible in order to give us a detailed study.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, the clerks tells me that Mr. Clark is working on it. As soon as it is available it will be given to the members of the committee before the meeting.

Mr. CHATTERTON: Mr. Chairman, I do not know if this has been raised, but could one get some information on the amendments made in some of the provinces such as British Columbia recently?

The JOINT CHAIRMAN (*Mr. Richard*): I understand that is also being done.

Mr. KNOWLES: Will you also include the city of Winnipeg?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

An hon. MEMBER: It will be too regional now.

Mr. KNOWLES: With all the good employers there I do not know.

The JOINT CHAIRMAN (*Mr. Richard*): One thing that has bothered me—although it should not affect our decisions—is what has industry done in relation to increasing pensions of superannuates in their own sphere? As a committee member I would be very interested in knowing if Mr. Clark or someone else could tell us what has been done by industry, which could be used as a guide by us. I so not know if it has ever been done.

Mr. KNOWLES: This was discussed, if I may say so, in our Canada pension plan committee, and before we ask our officials to produce another raft of

material I think it should be noted that a good deal of this was in the records of that committee. I know that Mr. Anderson of North American Life indicated that his company was doing it for his company's employees. I would like to know if there are such items on the records of that committee.

The JOINT CHAIRMAN (*Mr. Richard*): If the committee members are interested they may have a reference. Does Mr. Bell have some information?

Mr. BELL (*Carleton*): For example, I have here a letter from Canada Life to their pensioner employees showing what they are doing with respect to percentage increases both this year and in future years.

The JOINT CHAIRMAN (*Mr. Richard*): We will now adjourn. Thank you.

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OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

No. 31

TUESDAY, FEBRUARY 28, 1967

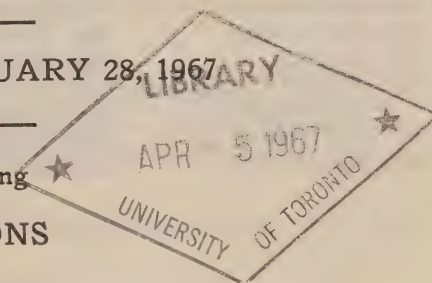
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PENSIONS

WITNESSES:

Messrs. C. A. Edwards, President, J. Maguire, Research Director, R. Deslauriers, Assistant Research Director and T. Cole, Research Officer, Public Service Alliance of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Énard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicou-
timi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

(HOUSE OF COMMONS)

TUESDAY, February 28, 1967.

Ordered,—That the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be further empowered to inquire into and report upon the matter of the pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

(SENATE)

WEDNESDAY, March 1, 1967.

The Honourable Senator Connolly, P.C., moved, seconded by the honourable Senator Deschatelets, P.C.

That the Senate do agree that the Special Joint Committee of the Senate and House of Commons on the Public Service of Canada be further empowered to inquire into and report upon the matter of the pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The question being put on the motion, it was—

Resolved in the affirmative.



MINUTES OF PROCEEDINGS

TUESDAY, February 28, 1967
(52)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.20 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Ballard, Bell (*Carleton*), Chatterton, Énard, Fairweather, Hymmen, Knowles, Madill, McCleave, Richard, Walker (11).

In attendance: Messrs. C. A. Edwards, President, J. Maguire, Research Director, R. Deslauriers, Assistant Research Director and T. Cole, Research Officer, Public Service Alliance of Canada.

As suggested by the Hon. Senator MacKenzie, the Clerk of the Committee was instructed to provide copies of a paper on pensions to members of the Committee.

Moved by Mr. Knowles, seconded by Senator Fergusson,

Resolved,—That the paper "Superannuation Plans of Provincial and Foreign Governments" prepared by the Department of Finance be printed as an appendix to this day's proceedings. (*See Appendix Y*)

At the conclusion of the questioning of the representatives of the Public Service Alliance of Canada concerning their brief presented this day, the Committee agreed to print the said brief as an appendix to the proceedings. (*See Appendix Z*)

At 12.35 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, 28 February, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we will hear a brief of the Public Service Alliance of Canada, represented by Mr. Edwards.

Senator MACKENZIE: Mr. Chairman, might I put in the hands of the secretary, a rather interesting document that came to me in the mail the other day on the business of inflation and pensions, pension plan design, career average, final average, flat benefit, post retirement adjustment, automatic wage increases, post retirement adjustment and management. It was produced by Canada Permanent. I am not doing it to promote the credit or welfare of the company in question, but it does deal with it in quite a sensible way and perhaps the secretary would like to have a look at it to see if there is anything in it.

The JOINT CHAIRMAN (*Mr. Richard*): Senator MacKenzie, is it your suggestion that copies be made of this memorandum and distributed to the members; then they can decide if it can be used for any other purpose.

Senator MACKENZIE: Exactly.

Some hon. MEMBERS: Agreed.

Mr. WALKER: That is a good slogan for our Centennial Year, Mr. Chairman: Canada—Permanent.

The JOINT CHAIRMAN (*Mr. Richard*): Make Canada permanent.

Mr. KNOWLES: Mr. Chairman, while you are on other matters, I wonder whether we could have an understanding or agreement that this document that the officials have supplied us, entitled "Superannuation Plans of Provincial and Foreign Governments," might be made part of our record. I think it should be printed as part of today's record.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed?

Mr. CHATTERTON: I have just a small point. I was asked to inquire about the situation with Australia. Could they get the figures for Australia.

The JOINT CHAIRMAN (*Mr. Richard*): I was going to speak to that. I inquired from Mr. Ruddy a while ago. When the question was put by the Committee the last time to the representatives of the Treasury Board, the only countries mentioned were those in this memorandum and I did raise the point that Australia was not in there, but if you will look up the minutes of the meeting you will see that no request was made to include Australia; although I think Mr. Edwards had included it in his appendix, in any event, so that we will have that information. Is it the wish of the Committee that this memorandum be printed in the minutes of the proceedings.

Agreed.

The JOINT CHAIRMAN (Mr. Richard): Are there any other questions? Then I will ask Mr. Edwards to speak.

Mr. C. A. EDWARDS (*National President, Public Service Alliance of Canada*): The Public Service Alliance of Canada welcomes this opportunity to present a brief on behalf of retired public servants who are faced with the increasingly frustrating problem, not only of maintaining a reasonable standard of living, but of making ends meet on fixed incomes in a moving economy, experiencing year after year, sizeable gains in the consumer price index and in the index of real wages. Large numbers of annuitants are undoubtedly becoming second-class citizens in comparison with their neighbours and members of their community because of the constant erosion of their purchasing power. The disparity is further emphasized by increases in the standard of living being enjoyed across the nation by millions of other people who benefit from steadily increasing gains in productivity.

We would like to make clear at the outset that wherever in this presentation we make reference to retired federal public servants and annuitants, our intention is to include retired members of the Armed Forces and of the Royal Canadian Mounted Police. Also, the term annuities, as we use it, is intended to include allowances payable to or in respect of widows, and surviving children, where applicable.

There is, of course, no need for us to remind this committee that annuities of retired federal public servants have not been increased since 1958. Even then, the authority ultimately contained in the Public Service Pension Adjustment Act of 1959 permitted increases effective July 1, 1958 only for certain annuitants who were superannuated prior to 1953. We will return to this point later.

The reasons given by the then Minister of Finance for payment of increased annuities are set forth in pages 2757 to 2759 of the *Hansard* of July 28, 1958, and again on page 4716 of the *Hansard* of June 15, 1959. Briefly, they refer to a combination of increases in both the cost of living and the general salary levels of Federal public servants from 1946 to the date of the Minister's statement. In other words, it was recognized by the government of the day that superannuated public servants living on fixed incomes should not be victimized by the continuous erosion of the purchasing power of their annuities due to increased living costs, without some relief being provided by their former employer. Nor was it felt that their position should worsen, vis-a-vis active employees benefiting from regular salary revisions.

There has long been an obvious need to do something further, not only for public servants who retired before 1953, but also for those who have retired in the intervening years. Having regard to the reasons given by the Minister of Finance in 1958 as previously mentioned, and the steady erosion which has since occurred in the purchasing power of the dollar, the Public Service Alliance of Canada and one of its predecessor organizations, the Civil Service Federation of Canada, have made submissions in each of the last four years, exhorting the government to fulfil the role of a good employer by taking action to alleviate this increasingly serious situation by seeking the necessary parliamentary authority to increase annuities of retired public servants. The Public Service Alliance feels that an equitable way to do this on a permanent basis would be to follow the practice of the Government of the United States whereby annuities of retired

federal public servants are automatically increased on the basis of increases in the consumer price index. We will refer again to this later.

We suggest that there is no need to spell out to this committee details of the formula by which annuities were increased in 1958. Such details are carefully set out in the Public Service Pension Adjustment Act of 1959 and its attached schedules. It is perhaps sufficient to say here that the increases apply to all superannuated public servants whose annuities did not exceed \$3,000 a year, and to widows whose allowances did not exceed \$1,500 a year. At that time, the increases applied to some 15,400 of a total of approximately 25,000 annuitants. For the full year 1959 the cost was \$3,300,000.

In 1958 the Minister of Finance said that it did not seem to the government to be fair to annuitants with long service to supplement only very low annuities. It was equally clear, he stated, that a flat percentage increase in all annuities would be inequitable and would favour those enjoying larger annuities, particularly those recently retired. Consequently, annuitants retired ten years previously, he said, had a higher claim to increases than those more recently retired whose annuities were more closely related to current salary scales. As a result, the allowances granted provided for increases in annuities varying from 32 per cent of the first \$2,000 of annuity for those who retired prior to March 1947 whose annuities were calculated on a ten-year average salary basis, down to 2 per cent for those with similarly calculated annuities who retired prior to December, 1952. Lesser amounts were granted to annuitants whose annuities were calculated on a more favourable basis. However, these are among the details set out in Schedules B and C of the Public Service Pension Adjustment Act of 1959.

The main point we wish to make here is that the government realized at the time that annuitants on fixed incomes, whose annuities were earned in periods of relatively low earning power, needed assistance in order to maintain a reasonable standard of living. The government of the day took steps to provide some measure of assistance.

Between January, 1953 and June, 1966 (the latest date for which data are available), average weekly salaries of salaried employees of the Federal Government have increased from \$54.54 to \$102.96 (88.8 per cent). From July, 1958 (when certain annuities were increased by the Pension Adjustment Act), to June, 1966, salaries increased from \$71.71 to \$102.96 (43.6 per cent). Since annuities granted now are based on the best six consecutive years of service (which in most cases are the last six years), it is evident that civil service employees retiring now are entitled to annuities which are considerably higher than those in payment to annuitants who retired only a few years ago in otherwise corresponding circumstances.

In addition, since there is ample reason to believe that the upward trend in salaries will continue, it is also apparent that the annuities received by public servants retiring now will prove to be considerably less than the annuities which will be received by public servants retiring a few years from now.

It should also be appreciated that annuities which are based on the old formula of the last ten years of service rather than the current formula of the best six years of service, have not benefited to the same degree from rising salaries because averaging over a longer period necessitates inclusion of lower salaries in computing annuities.

Cost of Living Increases

As at July, 1953 the Consumer Price Index stood at 115.4 (although "stood" is a most inappropriate word because it implies stability and since World War II there has been little, if any, stability in the Consumer Price Index). In the thirteen-year period from July, 1953 to July, 1966, the index rose to 144.3 (1949=100.0). A further increase to 145.9 has recently been reported on the month of December, 1966. This represents an increase since 1953 of 26.4 per cent. In other words, a 1953 dollar is today worth only 73.6 cents.

As a matter of coincidence, 1953 is also the year in which the Right Honourable Louis St. Laurent endorsed the following foreword to a civil service booklet describing the salient features of the Public Service Superannuation Act:

FOREWORD

This booklet deals with the salient features of the new Public Service Superannuation Act. It has been prepared for you so that you may understand and become familiar with the main provisions of this Act.

After studying it, I think you will agree with me that it is a most comprehensive Act. I can assure you that it compares favourably with the best pension plans that have been developed in this or other countries.

The benefits which it provides are now a matter of right whereas in the past they were given as an act of grace. You would do well to study this booklet so that you may be fully aware of all the benefits which you are building up for your own future and for the protection of your family. These benefits grow with each year that you continue to be employed in the Public Service of Canada.

I believe this Act will do much to provide you with a feeling of security that is in keeping with the excellent work you are doing and the fine contribution you are making to the welfare of Canada.

Louis S. St. Laurent,
Prime Minister.

Because of the continuing steady decline in the real value of the dollar since 1953, many of those public servants who made such fine contributions to the welfare of Canada before 1953 and who retired before that year, are now either struggling to make ends meet on those benefits which were intended to provide a feeling of security, or at best, are unable to enjoy the standard of living which it was reasonable for them to expect that those benefits would provide.

We now draw your attention to the following table concerning consumer price indices.

Consumer Price Indices			
Date (1)	1949=100.0 (2)	1953=100.0 (3)	1963=100.0 (4)
July 1949	100.0		
July 1950	102.7		
July 1951	114.6		
July 1952	116.1		
July 1953	115.4	100.0	
July 1954	116.2	100.7	
July 1955	116.0	100.5	+ 8.1%
July 1956	118.5	102.7	
July 1957	121.9	105.6	
July 1958	124.7	108.1	
July 1959	125.9	109.1	
July 1960	127.5	110.5	
July 1961	129.0	111.8	
July 1962	131.0	113.5	
July 1963	133.5	115.6	100.0
July 1964	136.2	118.0	102.0
July 1965	139.5	120.9	104.5
July 1966	144.3	125.0	108.1
Sept. 1966	145.1	125.7	107.7
Oct. 1966	145.3	125.9	108.8
Nov. 1966	145.5	126.1	109.0
Dec. 1966	145.9	126.4	109.3

This table is on the next page of your text and I will go over it quite slowly.

Column 2 of the table shows increases in living costs to December, 1966, as measured by the consumer price index, for each year since 1949 when that year represented a base index of 100. As the annuity increases authorized by the Public Service Pension Adjustment Act of 1959 apply to certain annuitants who retired before 1953, increases in living costs since 1953, using that year as a base, are shown in column 3. As previously mentioned, in 1958 the Minister of Finance cited increased living costs as a reason for the annuity increases which were effective July 1, 1958. Between July 1, 1953 and July 1, 1958, living costs had risen 8.1 per cent. Working back from the last mid-year point of July 1, 1966, we have determined, as shown in column 4 of the table, that an 8.1 per cent increase in living costs also occurred between July 1st, 1963 and July 1st, 1966. It is reasonable to assume, therefore, that there is justification for increasing all annuities which commenced before 1963.

It is also apparent from this table that, not only have living costs increased sharply since 1958, but also, the rate of increase has accelerated in the last three years.

In his book, *Public Sector Pensions*, Gerald Rhodes mentions that:

The basic principle was stated by Mr. Amory when Chancellor of the Exchequer to be that "pensions are directly related to length of service and pay on retirement and, once awarded, are not normally altered".

This statement was made in the British House of Commons on June 2, 1959. Mr. Rhodes continues:

Such a principle presupposes that in the normal state of affairs the value of money remains stable or at least declines only slowly, but certainly in the period since the war this assumption has not proved very satisfactory to employees in practice. Adjustments have been made from time to time to pensions being paid from central and local government schemes by means of a series of specific Pensions (Increase) Acts. These have tended to become more extensive in scope, perhaps under the realization that inflation, if not a normal state of affairs, is at least not quite so abnormal as had been assumed.

Mr. Rhodes also states:

There are other ways too in which the problem might be tackled, e.g. by linking pensions to a cost-of-living index or to an index of wage or salary rates. Either of these could be done in conjunction with a regular review of pensions.

In the next part we will be getting into a discussion of some charts and I would like to explain that Mr. Deslauriers, on my far right, has produced these charts in greater detail in a presentation here and he will go over these.

I thought I would read the text into the record and then give him an opportunity to explain just what the charts do contain.

The Effect on Annuities of Salary and Cost-of-Living Increases

We now invite your attention to Charts 1, 2, 3 and 4, the supporting data for which appear in Appendix A to this brief. These charts plot the movement of the consumer price index (C.P.I.) using the years 1949, 1953, 1958 and 1963, respectively, as base years. In other words, for each of the base years the index is taken as 100.0. The C.P.I. curve, therefore, shows the percentage increases in the C.P.I. from the base year to 1966. Also on these charts, and giving all indices a value of 100.0 for each of the base years, are shown the movement to date of the following indices:

FSI—Federal Salaries Index, which is related to average weekly salaries of salaried employees in the federal government as at December 31st of each year (except 1966, for which June is the last month for which data are available);

IRFS—Index of Real Federal Salaries, which is determined by dividing the Federal Salary Index by the concurrent Consumer Price Index, thus removing the influence of the latter to provide an index of the real value of federal salaries;

AI—Annuity Index, which of course, remains at 100.0 in terms of the year in which an annuity commenced;

IRAV—Index of Real Annuity Value, which is determined by dividing the AI (i.e. 100.0) by concurrent Consumer Price Index. Because the CPI continues to rise, the IRAV is always less than 100.0 and indicates the

progressively eroding effect which the increasing living costs have on fixed annuities income.

It is obvious from these charts that, in order for an annuitant to hold his own (that is, retain the purchasing power which he hoped his annuity would continue to have), his annuity must be increased in direct relation to increases in the Consumer Price Index. It is also obvious that if an annuitant is to benefit from general economic improvement (that is, increased productivity), a higher factor than the cost of living index must be applied in order to close the gap between the fixed annuity index of 100.0 and the index of real federal salaries. (We will bring to your attention later in this presentation that such a practice has recently been adopted by the government of the Federal Republic of Germany).

The years 1949, 1953, 1958 and 1963 were selected for the following reasons:

1949—this is the base year for the Consumer Price Index;

1953—there have been no increases in annuities which commenced during and since 1953;

1958—this is the year in which the government approved increases in certain (but not all) annuities which commenced prior to 1953, based in part on an increase of 8.1 per cent in the Consumer Price Index from 1949 to 1953;

1963—from 1963 to 1966 the Consumer Price Index had risen 8.1 per cent. An increase of the same amount was cited as support for increases in annuities approved in 1958.

At this point I would like Mr. Leslauriers to just go over this in the charts because we think that this will show very graphically what has happened to annuitant incomes during this particular period of time.

Mr. R. DESLAURIERS (*Assistant Research Director, Public Service Alliance of Canada*): Here we have a sort of preamble before we go to the charts. We have used a bit of a colour code here. Here you have in dark blue your consumer price index curve and you have your federal salaries index curve shown in black here. Now, what we have done is we have gone ahead and calculated the real values which show here in red the index of real federal salaries and then in the last two shown in black you have your AI lines, annuity index, and IRAV which is the index in real annuity values.

Senator MACKENZIE: What do you mean by real salaries?

Mr. DESLAURIERS: By real here we have removed the effects of inflationary increases as shown by the increases in the consumer price indices.

Senator MACKENZIE: As compared with what period?

Mr. DESLAURIERS: We have four different periods here. The first one starts 1949 equals 100.

Senator MACKENZIE: And when you use the red one which one are you talking about. Any one of those?

Mr. DESLAURIERS: These reflect the real federal salaries. There is an index maintained on a monthly and yearly basis of federal salaries and this shows the real federal salaries.

Senator MACKENZIE: In terms of the cost of living?

Mr. DESLAURIERS: This is right. They have been reduced by the cost of living increases.

Chart 1 here, where you can cross-reference with Chart 1 in the Report on page 12, uses the base year 1949 where all indices start with a value of 100.0. These graphic presentations here do show the movement since 1949, right up to 1966, of the various indices. You will notice this top line reflects the federal salaries index right up to the time 1966. Now, the real value of this index is shown by this red curve where we decline the consumer price index to find out what the real gain has been of federal salaries, the index of federal salaries.

You will note this dark blue line, which is the consumer price index as it has moved from 100 in 1949, to a value of close to 146 at the end of 1966.

Now, we may leave salaries in the consumer price index; let us look at what is happening to the annuities. You have an annuity here with a base of 100.0 in 1949 and, of course, it does not change with the exception, as noted in your report of 1958, where there was the adjustment act where pensions were increased for those who had retired prior to 1953. But essentially, we move along the curve of 100.0 which is the lateral one because it has remained permanent. What we have done is applied the consumer price index factor to the annuities and this is what has happened to the annuity curve since 1949. There is a gradual but steady decline in the real value of an annuity since that time.

The actual figures for 1966 are perhaps significant, so I will just read them off to you. The federal salaries index was at 228.1 The index of real federal salaries, 158.6 the consumer price index 145.9; your annuities, of course, 100.0 in 1966, and the real value of your annuity has gone down to 68.5

Mr. WALKER: Where you had the little red mark, is that where the adjustment was made in the annuities? There is no correction in the chart; it did not make any difference; they just kept going down.

Mr. DESLAURIERS: This is correct. A number of civil servants that did retire prior to 1953, whose pension was over \$3,000, remained on this line; they remained unchanged, and also widows receiving more than \$1,500 a year; their annuities as well remained unchanged.

But there were some annuitants that did receive this increase based on this act in 1959.

Mr. WALKER: But it did not affect the chart.

Mr. DESLAURIERS: No; this chart applies to those whose annuities did not change following the adjustment act. There were a number of these. This is why we have gone ahead here and shown 1953 as a base at which time there had been no—

Mr. CHATTERTON: Before we go on to the next chart may I ask about the federal salaries index, how does that compare with the average wage index across Canada?

Mr. DESLAURIERS: Well, since the inception of the Pay Research Bureau in 1957, salaries on the outside, based on the industrial composite, have tended to come fairly close or have tended to move together along with the federal salaries index, in that comparisons have been fairly close.

Chart 2 does take on a particular significance in view of the point raised a minute ago. Since 1953, the pensions of annuitants have not increased. Since that time more than thirteen years have gone by and there has been no increase for someone retired since the end of 1952, which is a period of well over thirteen years, and the annuity has remained fixed at 100.0

Mr. KNOWLES: There was no further increase for people who had retired prior to 1953, either. Whatever annuity they had in 1953, they still have.

Mr. DESLAURIERS: That is right.

Now, again we have what perhaps is the most noticeable trend. It is the accelerated rate of increase of outside salaries, of federal salaries, and, of course, of the consumer price index. Again using 1953 as a base, you will get your index of federal salaries at 187.5; the real value of federal salaries, 150.9. The consumer price index has moved from 100 to 126.0 at the end of 1966. Of course, the real value of your annuity has decreased to 79.4

Mr. J. MAGUIRE (*Research Director, Public Service Alliance of Canada*): May I say a word, Mr. Chairman, about this. I think one of the significant things is that while active civil servants have received in a sense a real increase in their purchasing power of 50.9 points from 100 to 150.9, for the annuitants, those who have retired, since 1953, there has been a decline in the purchasing power of their dollars to 79.4, so the real gap between the active civil servant and the retired civil servant is something in the order of 71.5 index points. In other words, if both an active civil servant and a pensioner were receiving \$100 a month, for example, in 1953, then by 1966 the active civil servant, if he had received the average increases in the service, is now receiving in terms of real purchasing power \$150.90 but the annuitant is receiving in terms of real purchasing power \$79.40 which is a gap of about \$71.50 between the two.

Mr. WALKER: Mr. Chairman, may I ask a question. I am probably not reading this chart right. It is difficult to walk into this. But in 1959, \$3,300,000 was pumped into the superannuates, 15,400 of them out of 25,000, but this declining chart, which shows the valuation of the annuity, this figure and the number of superannuates involved, show no effect on the chart.

Mr. MAGUIRE: Well, on this particular chart, the adjustment in pensions which was granted in 1959 applied only to those who had retired prior to the first of January 1953, so for those retired since then, there has been no change in their annuity.

Mr. CHATTERTON: I can understand why there is no change shown on the second chart but I cannot understand why there is no change on the first chart.

Mr. DESLAURIERS: Well, the first chart—I should mention that there is no change for those widows earning more than \$1,500 and for those annuitants receiving more than \$3,000 as an annuity. This chart reflects the straight curve of 100.0 for people in those two categories. There were upwards of 10,000 of these out of the 25,000.

Mr. CHATTERTON: It does not reflect the pensions of those who got the increase the first time.

Mr. KNOWLES: In other words, you could have found out what the average was and gone up slightly for that but it would have been—

Mr. MAGUIRE: We would have had to determine the increase for every superannuate at that time. This would have been an almost impossible task for us. D.B.S. might have been able to do it but we could not have. We would need a much bigger staff.

Mr. DESLAURIERS: The rate of increase between each individual and each annuitant's value would have had to be added in to come up with—

Mr. KNOWLES: The result would have been very small and meaningless.

Mr. MAGUIRE: It curves slightly here in this way.

Mr. CHATTERTON: Just to put it in perspective, you say the 1959 increase cost \$3.3 million in that year. What was the total amount paid to federal superannuates in that year, roughly? Just give me some idea.

Mr. T. COLE (*Research Officer, Public Service Alliance of Canada*): It was \$2.5 million I believe because it was not a full year. The actual vote was \$2.5 million for that.

Mr. MAGUIRE: I know that but what is the total amount of the pensions paid? Do you have a copy of the Annual Report there?

Mr. COLE: The amount was \$57 million. So it was about \$3 million out of the \$57 million.

Mr. DESLAURIERS: Percentagewise the total amount of \$3,300,000 would be less than 10 per cent of the actual total pension being paid in 1966.

Mr. KNOWLES: If you tried to carry it through as the members have been suggesting—

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Deslauriers, I do not know if you are speaking into the microphone at all. Pick the mike up.

Mr. KNOWLES: I was saying that if you tried to carry it through you would have to find out what had happened to every annuitant who got the increase in '53 whether he was still alive or had died.

Mr. DESLAURIERS: Yes; it would have involved an individual computation.

Mr. KNOWLES: It would have been almost impossible to produce that kind of chart.

Mr. CHATTERTON: It is around five or six per cent.

Mr. DESLAURIERS: Yes, it is less than 10 per cent—well under that figure. The significant point here—this is why we went to these other charts to use different base years—is that since 1953 anyone who has retired has lived on the same pension ever since and this is now well over 13 years ago.

Chart 3 uses a base year of 1958. For cross references, this refers to Chart 3 shown on page 13 of the report. Again, you will see the upward trend. Here it is shown fairly significantly. The index of federal salaries is shown standing at 142.0, using 1958 as the base year where all indices are equal to 100. You will notice similar changes in the real value of federal salaries, the consumer price index, and perhaps here it is more graphically obvious that your curve is increasing its rate of descent as you move towards 1966, in terms of the real value of the annuity.

Mr. DESLAURIERS: Yes, this is right. There is a gap of 38.2 points between here and there in terms of real value of salaries and annuities.

Senator FERGUSON: What are the figures?

Mr. DESLAURIERS: The figures here?

Senator FERGUSON: I have that one.

Mr. DESLAURIERS: This gain from 100 to the index of real federal salaries is 24.7. The decrease is 13.5 points. The total disparity from here to here in terms of real value is 38.2 points.

Mr. MAGUIRE: The CPI, if you have not got it, is 115.6

Mr. DESLAURIERS: It is 115.6 here; 124.7 here and 142.0.

This last chart, No. 4 is significant in three sense that we are covering a relatively short period; that is, from 1963 to the end of 1966. In that 36 month period we were able to plot and show in quite real terms the actual spreading out that is happening in your graphic presentation in the space of over 30 months. Your index of federal salaries is still increasing. It reads 113.6 at this particular point, again, using 1963 as your base year, 100.0

Of course, as everyone knows the consumer price index in the last two years and particularly in the last 12 months, has made gains and it has actually surpassed the index of real federal salaries, and it now reads 108.7, using 1963 as 100. Your annuitant, of course, is on a fixed annuity, 100.0, up to this point and the real value of the annuity is down to 92.0. Again, this situation takes place in a space of three years. He has lost \$8 for every \$100 on his annuity.

Mr. MAGUIRE: On the index of real federal salaries it is 106.1.

Mr. DESLAURIERS: Yes, the figures here read 106.1 for index of real federal salaries and 92.0 for the index of real annuities. The total disparity here is 14.1 in this relatively short period between the real federal salaries index and the index of real annuities.

Mr. CHATTERTON: Which one of these charts are you going to use in your next bargaining?

Mr. DESLAURIERS: Perhaps what is most significant here is the increase in the rate of increase, if you will, in the indices of salaries and the consumer price index. There is an acceleration in the rate of increase from one period to the next, and from one month to the next. There is no sign here, as is obvious to anyone, that the index curve is levelling off or indeed that the salaries curve, either real or actual, is levelling off either. So one would expect that this disparity perhaps would continue. I should mention here that there has been no distortion in the actual horizontal versus vertical axes. We have kept these in actual proportions so that you just do not get an inflated sort of a story.

Mr. MAGUIRE: This is why the smaller period has a smaller chart than the longer period 1959 to 1966.

Senator DENIS: In other words, the employees are receiving too much and the retired person, not enough.

Mr. CHATTERTON: Let us even them up, shall we?

Mr. WALKER: Where you are showing the decline in the actual value, you are speaking about what—actual superannuates in that period or the value of their annuity even though they are still working?

Mr. DESLAURIERS: Well, these are all retired.

Mr. WALKER: They are retired.

Mr. DESLAURIERS: That is right, and it is the actual value of their dollar.

Mr. WALKER: I know but these are retired. It is not an erratic figure of—

Mr. MAGUIRE: No, these are actually people who are retired. This is what their dollar is worth, 92 cents.

Senator MACKENZIE: Could I ask one question on salaries? Sorry to take you back to page 4 but I will just give you what I have in mind. You state that the average weekly salaries went up from \$54 to \$102 and again from \$71 to \$102. Does that cover the whole spectrum of civil servants' salaries, the high bracket people as well as the low bracket.

Mr. DESLAURIERS: Yes, it includes all civil servants.

Senator MACKENZIE: Well, the point I am making is have you any idea whether those in the upper brackets get the kind of percentage increase that the lower bracket people do? This is where percentages are sometimes confusing and meaningless.

Mr. DESLAURIERS: Yes, depending on the group of employees here, the greater—

Senator MACKENZIE: In other words, would a \$20,000 man get a 20 per cent increase, let us say.

Mr. MAGUIRE: I would like to answer that question, Mr. Chairman. Since the creation of the Pay Research Bureau and the division of the service into Group A and group B, I think you are familiar with these terms, Groups C and D, no. There has been a tendency for the percentage increases to be fairly constant irrespective of the salary you are receiving. In other words, a \$10,000 a year man is intended to get the same percentage increase as a \$20,000 a year man. Now, this may be—

Senator MACKENZIE: What about the \$5,000 a year man? He gets the same percentages.

Mr. MAGUIRE: Yes, it tends to be the case, in the last three to four years anyway.

Senator MACKENZIE: So that a \$20,000 a year man gets a very substantial amount of dollars more?

Mr. MAGUIRE: In terms of actual dollars, yes.

Senator MACKENZIE: In actual dollars.

Mr. DESLAURIERS: This index of federal salaries, of course, is largely influenced because of the shift of larger numbers of your clerks and stenographers—

Senator MACKENZIE: Oh, I know that but I was just wondering whether the percentage method gave an accurate picture, in view of the disparity in salaries between the high brackets and the low brackets.

Mr. DESLAURIERS: Your higher bracket will get more actual dollars even though the percentage might be the same.

Mr. MAGUIRE: There is no question about that.

Mr. EDWARDS: I think it should be added that, Senator MacKenzie, there is quite often compression above that \$20,000 level. You probably have heard of the difficulty of deputy ministers and so on, above that level getting salary increases, because there tends to be compression at about the \$20,000 where there is a movement away from straight percentage increases, but certainly below this level—

Senator MACKENZIE: This is why I asked the question.

Mr. EDWARDS: —below this level it tends to be the percentage type of increase. I think it would be fair to say that lately there has tended to be, from what I can recall, a slightly greater percentage increase for the lower levels from what might have been experienced in the past.

Senator MACKENZIE: Well, in the last couple of years, yes, they have tended to catch up.

Mr. WALKER: Do those average weekly salaries include the armed forces and the R.C.M. Police that you have mentioned in your brief?

Mr. MAGUIRE: No.

Mr. DESLAURIERS: These are federal salaried civil servants.

The JOINT CHAIRMAN (*Mr. Richard*): Any other questions?

Mr. WALKER: Could we go back to page 11 of your brief?

Mr. CHATTERTON: Just one question. Do you know if there would be much of a difference in the picture with regard to ex-armed forces and ex-RCMP? Have you any idea? Would it be very much the same type of picture?

Mr. DESLAURIERS: Yes, the downward trend will be reflected in that the real values here are based on the movement of the consumer price index which affects all Canadians, armed forces and otherwise.

Mr. EDWARDS: We might go back to page 11 then in the text for the last two paragraphs of that.

We would like to emphasize that each of these charts has been prepared in precisely the same proportions so that there is no distortion between charts either in the scale of indices or in the scale of years. With this in mind, we would like you to notice on Chart 4 the disparity which has occurred in the short period from 1963 to 1966 between the index of real federal salaries (IRFS) and the index of real annuity values (IRAV). It is apparent that the disparity is increasing very rapidly. There is no reason to believe that this will not continue indefinitely, unless appropriate corrective action is taken.

In our view, if an annuity is to provide a certain standard of living, it is unrealistic and does not make sense to guarantee that standard only at the moment of superannuation. And yet, this is what is occurring, as we have endeavoured to demonstrate graphically in the charts which follow.

Then we might go to page 14 since we have looked at the charts, and on page 14 we illustrate what actually has been happening in the case of some

annuitants. On page 15, I will read the notes in reference to these examples so that you may understand what the examples mean.

Comparisons 1, 2, and 3 relate to typical civil service annuitants, and are based on the employees having been at their maxima salary rates for their last ten or best six years of service, as applicable. In these comparisons, note that: (i) because Case A retired 10 years earlier than Case B, but in circumstances which otherwise correspond, Case A's annuity is considerably less than Case B's; and (ii) 35 years' service was required for Case A's annuity, whereas, because Case C retired 10 years later, a considerably shorter period of service was required to produce approximately the same annuity. Comparisons 4, 5, and 6 relate to armed forces annuitants. Case A relates to an annuitant who is living today and who was retired in the circumstances shown. Case B indicates the annuity payable if retirement occurred on September 30, 1966 in circumstances otherwise corresponding to Case A.

The bracketed figures are the amounts of annuities before the increases effective July 1, 1958 authorized by the Public Service Pension Adjustment Act, because you will notice that they were all brought up then to a matter of \$250—\$3,000 a year.

The bracketed percentage figures are based on Case A annuities before the increases referred to in Note (b).

I think that that will show you as you notice there in comparison one, a clerk 3, case A who retired in September, 1956, with 35 years service would be receiving \$147.71. If he had done exactly the same work and retired 10 years later he would be drawing an annuity of \$251.85, or alternatively if he had retired at the same date September 30, 1966, with 21½ years service, he would be receiving approximately the same amount as the first employee received after 35 years service.

Mr. CHATTERTON: I am not clear on the ten year and the six year on these figures.

Mr. EDWARDS: The ten year situation is, of course, because the act changed in 1960 and the calculations were from then on, on the best consecutive six years. Prior to that they were on the best ten year average.

Mr. CHATTERTON: In all cases the A's are based on ten years.

Mr. EDWARDS: That is correct.

Mr. CHATTERTON: The B's are on six years.

Mr. EDWARDS: The B's are on six years. Of course, C is on six as well. The armed forces—these are cases based on exactly the same type of situation doing comparable jobs. I think it does illustrate the difference in actual dollars in pension for people who were either doing exactly the same job or worked for the same length of time for the government or, alternatively, had to work for a considerably fewer number of years in order to receive the same annuity.

Mr. CHATTERTON: In comparison (1), for example, case A, if it had been based on six rather than ten what would that \$147.71 have been?

Mr. EDWARDS: I am sorry but we have not worked it out.

Mr. CHATTERTON: Would it be a substantial—

Mr. MAGUIRE: We did not because it was a purely hypothetical situation, if we did that, and these are actual cases that we are referring to here.

Mr. EDWARDS: Without knowing the full facts, I would think it would make a change in this because we did have a period of salary increases prior to 1956. Particularly after the war the salary increases came much more frequently than what they had done in prior periods, so that the person whose annuity was computed on the last six years—even from 1956 back—would probably take in some periods of fairly substantial salary increases.

The above examples give a somewhat hollow ring to the assurances of “benefits—building up for your own future and for the protection of your family”, and provision of “a feeling of security which is in keeping with the excellent work—and fine contribution which you are making to the welfare of Canada”.

Old Age Security

Admittedly some measure of relief will be available when annuitants become eligible for old age security. At present, however, this will not occur until they reach age 68; and it will not be until 1970 that eligibility for old age security will be generally established at age 65. Regardless of what may be done for these annuitants in the intervening years, there is no sound reason why old age security, which itself is an earned, contributory entitlement, should be regarded as an offset against the deterioration which has occurred in another contributory entitlement earned by retired public servants.

In addition, the fact should not be overlooked that Canadian men tend to be older than their wives—1963 statistics indicate an average age difference of three years³. Also, the age at death of the average Canadian male is four years less than that of the average Canadian female (male—60.5 years; female—64.1 years)⁴. If a public servant dies at age 60, and assuming a three-year age difference, his 57-year-old widow, who at that age has a life expectancy of approximately 22 years⁵—

Senator MACKENZIE: You say that the average female's life expectancy is 64, and then you go on to say that at 57 she has a life expectancy of 22 years—

Mr. EDWARDS: If she reaches that age. At birth her average age is—

Senator MACKENZIE: The first is from birth?

Mr. EDWARDS: That is correct.

Senator MACKENZIE: Thank you.

Mr. MADILL: Are these outdated or actuarial figures?

Mr. EDWARDS: They are from the Canada Year Book 1966.

Mr. MADILL: It was not too long ago that it was 72 and 77.

Mr. EDWARDS: We have the tables here from the Canada Year Book.

Mr. MADILL: This is not 1966, is it. I believe it is for the year 1961.

³ Canada Year Book, 1966, p. 277.

⁴ Item p. 260.

⁵ Idem p. 280.

Mr. EDWARDS: It is for the years 1961 to 1963.

Mr. MADILL: This is what actuaries use for insurance.

Mr. EDWARDS: The year 1963—the tables used here are from the Canada Year Book.

Mr. MADILL: Is this a cross-section of civil servants or is it everybody in Canada.

Mr. EDWARDS: No.

Mr. CHATTERTON: It is the whole population.

Mr. MADILL: The latest figures that I have come across in any insurance book are 72 and 77.

Senator MacKENZIE: Life expectancy?

Mr. MADILL: It is life expectancy based on actuarial figures.

Senator MacKENZIE: At birth at the present time. It may not apply to those born 30 years ago.

Mr. MADILL: It applies to today.

Mr. MAGUIRE: If you want to get the Canada Year Book 1966 you will find the table on page 260.

Mr. WALKER: The most interesting statement is that men are always older than women.

Mr. EDWARDS: If a public servant dies at age 60, and assuming a three-year age difference, his 57-year old-widow, who at that age has a life expectancy of approximately 22 years will have no entitlement to old age security for eight years and is left with an annuity income only one-half of what her deceased husband was receiving or would have received. And, as already demonstrated, the real value of the reduced annuity deteriorates rapidly because of increased living costs. If the widow is a few years younger, the situation is even worse, bearing in mind that the occupation of many widows for many years has been simply that of housewife. They may have lost any marketable labour skills they once had, and consequently are ill-equipped to earn supplementary income until becoming eligible for old age security at age 65.

Tax Escalation

Let us not forget that, in addition to the eroding effect of increasing living costs on annuities, in 1964 there was a 33½ per cent increase (i.e. from 3 per cent to 4 per cent) in the contributions made by Canadians for old age security. Also, aside from income and old age security taxes, there have been significant increases in taxes generally at all levels of government, for example, municipal property taxes, provincial retail sales taxes, federal sales tax, etc., the sum total of which has placed an extremely heavy tax burden on persons whose major source of income is a fixed annuity and for whom such taxes are almost completely regressive.

The Public Service Alliance also feels that, in the case of a deceased contributor whose survivor is entitled to an annuity under the Public Service Superannuation Act, there should not be included in the aggregate net value of

the estate for the purpose of determining estate tax liability, the commuted value of future annuity entitlements. We are aware of Section 30 (1) (ac) of the Act and Regulation 32 which permit payment from the Superannuation Account of that portion of the estate tax liability which is attributable to future annuity benefits, subject, of course, to future annuity payments being reduced until the Superannuation Account has recouped the amount paid for estate tax. Nevertheless, since the annuity payments themselves are subject to income tax, we feel that there should be no question of estate tax liability on the commuted value of future annuity payments.

Precedents Established Elsewhere

The cases outlined below indicate a trend, both in the public and private sectors, towards acceptance by employers of a moral obligation to ensure that the measure of security earned through years of loyal and devoted service is not eroded by what some refer to as creeping inflation, but which, indeed, in the past few years, has accelerated from the "creeping" to the "running" stage. The Public Service Alliance earnestly hopes that this committee will see fit to recommend an appropriate remedy now, rather than wait until inflation breaks into a "gallop" before taking steps to alleviate the situation in which retired public servants now find themselves.

(a) Public Sector

On November 19, 1965, the Civil Service Federation provided the government with information concerning the practice of the United Kingdom Government of escalating pensions already in payment. Briefly, the situation in the United Kingdom is that pension placed in payment on or before April 1st, 1957, were increased by 16 per cent. For pensions placed in payment during each subsequent year, the percentage amount of increase is 2 per cent less than for the preceding year for example, 1958—14 per cent, 1959—12 per cent, and so on), so that for pensions placed in payment between April 2nd, 1963 and April 1st, 1964, the increase is 2 per cent only.

In the United States, legislation was enacted in 1963 which provides that, effective January 1964, whenever the cost of living goes up by at least 3 per cent over the Consumer Price Index for the month used as a basis for the most recent cost-of-living annuity increase, and stays up by at least 3 per cent for three consecutive months, an increase in annuities equal to the percentage rise in the Consumer Price Index will be granted automatically. We emphasize and comment the automatic feature of this arrangement.

Mr. CHATTERTON: Is that for civil servants?

Mr. EDWARDS: That is correct.

Mr. WALKER: Excuse me. You said civil servants. Are we not dealing with the public sector?

Mr. EDWARDS: Yes, but the United States legislation is in regard to their government employees.

Mr. WALKER: All right.

Mr. EDWARDS: It is also interesting to note that under the Superannuation Act of Australia, the Superannuation Fund is administered by a Superannuation Board which is a corporate body having statutory authority to invest the Super-

annuation Fund within prescribed limits. It is also of interest to note that the 43rd Annual Report of the Australian Superannuation Board reveals that for the fiscal year 1964-65, "The effective rate of interest earned by the Fund during the year was £5 10s 7d per centum (that is slightly more than 5.5 per cent)* compared with £5 9s 9d per centum (ie. slightly less than 5.5 per cent)* in the previous year."

Senator MACKENZIE: May I ask a question here? Is it relevant to compare interest rates in Canada with those of Australia. I ask that because I was in Australia for some time in 1955, and I was interested in the apparent dividends being paid by Australian companies on shares and stocks at that time as compared to Canada. They were so much higher that I rather wished that I was a wealthy person living in Australia with money to invest. If that is so, then it is natural and obvious that Australian interest rates on—I suppose—annuity money would be higher than in another country where the interest rates and dividends might be lower.

Mr. EDWARDS: Senator, I think what is relevant here is that we are indicating in this brief that a superannuation board does have the authority to operate on this basis, of getting a higher interest rate. We are not suggesting that because it is 5.5 per cent in Australia it should be 5.5 per cent here.

Senator MACKENZIE: I would like to think it could be.

Mr. EDWARDS: I would like to think so too.

Senator MACKENZIE: I was interested in another document which was presented to us yesterday or today, which indicated that in the various provinces of Canada, the interest rate seems to be set at about 4 per cent, which does indicate that we do not seem to earn as much on our money, as they do in some other countries, for what reason I do not know. Sorry.

Mr. EDWARDS: Additional information concerning the superannuation policy of the Government of the Commonwealth of Australia appears in Appendix B to this brief. Suffice it to say here that it is apparent that the discretion permitted the Australian Superannuation Board to invest funds, not only relieves the tax payer of the burden of payments for actuarial liability adjustment, but also permits enhancement of benefits already in payment. In other words, such benefits are not permanently "crystallized" at the time of retirement, as is the case in Canada.

The Public Service Alliance believes that if the Public Service Superannuation Fund possessed the ability to invest funds, the fund could earn a more realistic rate of return than the 4 per cent now paid by the government. We will come back to this point later.

This Committee will be interested to know that the Government of the Federal Republic of Germany has recently taken steps to improve retirement pensions for public servants. This information was gleaned from the November/December, 1966 newsletter of the Public Services International, London.

GERMANY

Improved Retirement Pensions for Public Servants.

In October of this year the Federal German Ministry of Finance approved the new Constitution of the Federal and Provincial Retirement

*Bracketed phrasing inserted by PSAC.

Pension Institute. This means that more than 1,300,000 manual and non-manual employees of the Federal and Provincial Governments and of municipalities will enjoy much better conditions as regards retirement pensions. This settlement was the result of four years of negotiation and it represents one of the greatest successes of the German Union, *Gewerkschaft, OeTV*⁹, in the social field. The full interpretation of *OeTV* appears below. It provides, after 35 years' employment, for a pension amounting to 75 per cent of the last earnings (automatically adjusted in proportion to the current salary of the grade concerned). The Union emphasizes that such an innovation in retirement provisions is the topical answer to the problem of old people in a modern industrial society.

(b) *Private Sector*

On November 1st, 1965, the Civil Service Federation forwarded to the Prime Minister a brief on this subject. Among other things the brief outlined the action taken by General Motors of Canada to alleviate the situation resulting from loss of purchasing power of pensions. Details of the General Motors action are contained in Appendix C to this brief. Suffice it to say at this point that the increases range in the order of 50 to 60 per cent, and that since June 1950 General Motors has increased pensions from \$1.50 per month for each year of service to a possible maximum of \$4.25 per month for each year of service. This difference of \$2.75 per month represents an increase of approximately 183 per cent.

The principle now established has also been honoured in the case of a more recently negotiated agreement between the United Packinghouse, Food and Allied Workers and Canada Packers Limited. Although final details of this settlement are not yet known, the company has accepted the principle of increasing pensions already in payment and has committed a definite sum of money for this purpose. One formula suggested would give a supplement which is 2 per cent greater for each year prior to 1966, but, as far as can be ascertained at this time, details have not yet been negotiated.

Some information has also come to hand concerning two additional cases in which industrial companies have accepted this recently established principle. Dehavilland Aircraft of Canada Limited has signed an agreement with the United Auto Workers extending to pensions already in payment the increased pension benefit now applicable to pensions currently placed in payment. Also, the agreement between the United Steelworkers of America and the Steel Company of Canada provides for an across-the-board increase of \$20 per month in pensions in payment.

The Public Service Superannuation Account

We would like now to make some observations concerning the Public Service Superannuation Account. We sometimes wonder whether the government is not overly concerned about the maintenance of the Superannuation Account on a full actuarial basis.

As at March 31st, 1966 (the last date for which official figures are available), the balance in the account was well over \$2 billions. An examination of the

⁹ *Gewerkschaft OeTV*=*Oeffentlicher Dienst, Transport und Verkehr* (i.e. Public Service, Transport and Trade & Commerce Union)

balance sheet for each of the last four fiscal years reveals that the interest alone has exceeded total disbursements. In fact, for the years ending March 31st, 1963, and 1964, the employees' contributions alone exceeded the total disbursements, and for 1965 and 1966 employees' contributions were only slightly less than total disbursements.

There are precedents for paying government pensions on a pay-as-you-go basis. While the Public Service Alliance is not necessarily recommending such a course, it does submit that the senior government of the nation, as an employer, has no need for funding the superannuation account on a full actuarial basis, especially when we are experiencing an extended period in which large numbers of present-day annuitants are in dire need of additional income if they are to maintain some semblance of the first-class citizenship which they have been led to believe they justly deserve. In any event, if funding on a full actuarial basis is necessary, the Public Service Alliance submits that the rate of interest paid by the Government for its use of superannuation funds should be a realistic rate in line with the experience of private superannuation funds, and certainly not less than the rate payable to subscribers to Canada Savings Bonds. The extra income to the fund from such an increase would be more than sufficient to finance increases in annuities which would at least compensate for increases in the cost of living. It might even permit annuities to be increased at a rate comparable to increases in real salaries paid to public servants. For example, the 4 per cent interest credited by the government for the fiscal year ending March 31st, 1966 amounted to slightly less than 90 millions of dollars (\$89,499,085). Incidentally, this is some 20 millions of dollars more than the total disbursements which were (\$69,906,914) for that year. If a more realistic interest rate of 5 per cent had been used, the fund would have earned an additional 22½ millions of dollars. This additional interest represents 38.8 per cent of the annuity benefits paid during the 1965-66 fiscal year (\$57,674,369). While the Public Service Alliance is not recommending across-the-board increases of flat amounts, this additional interest income represents \$48.64 a month for each of the 30,923 contributors on pension, and \$24.32 a month for each of the 15,252 widows on pension, as at March 31st, 1966.

The Public Service Alliance of Canada feels that the Government, as an employer, has a definite, moral obligation, not only to further alleviate the situation in respect of annuitants who retired prior to 1953, but also to make provision for the periodic escalation of annuities placed in payment before, during, and since 1953. Having regard to the dignity of retired public servants and the fact that their annuities represent an entitlement which should permit them to maintain a standard of living commensurate with such benefit at the time of retirement, there should be no question of a means test and no appearance of pension increases being social welfare. The Public Service Alliance can not accept the principle that Old Age Security should be applied as an offset against the deterioration which, as a result of chronic inflation, has occurred and will continue to occur, in the real value of annuities. Not only is this not the purpose of Old Age Security, which, like the public servant's annuity, is an earned, contributory entitlement; but also, in many cases, the eroding effects of inflation reduce the real value of annuities long before annuitants become eligible for Old Age Security.

Accordingly, the Public Service Alliance recommends that:

1. all annuities which are based on average annual salaries during the last ten years of service be recomputed on the basis of average annual salaries during the best continuous six years of service;
2. in all cases where, since the date on which an annuity commenced, living costs have increased by at least three per cent (as reflected by the Consumer Price Index for Canada), and such increase of at least three per cent has persisted for at least three months, the annuity be increased by the percentage increase in the Consumer Price Index for Canada since the date on which the annuity commenced;
3. in future, annuities be increased automatically by the percentage increase in the Consumer Price Index when living costs (as reflected by the Consumer Price Index for Canada) increase by at least three per cent since the effective date of the last annuity increase, and such increase of at least three per cent in living costs persists for three consecutive months;
4. this committee consider the feasibility of additional increases in annuities commensurate with productivity increases as reflected in the index of federal government salaries;
5. that the annual rate at which interest is paid by the government on the balance in the Public Service Superannuation Account be increased to not less than the yield rate for Canada Savings Bonds, and in any event that such annual rate be not less than 5 per cent and that the resulting additional income to the Superannuation Account be used to increase annuities as recommended in this brief;
6. the Public Service Superannuation Act be amended to include a provision (similar to that contained in the War Veterans' Allowance Act) which would permit continuation of payment of the full annuity entitlement for one year after the death of an annuitant; such payment to be made to or in respect of the survivors of the annuitant to assist in their rehabilitation, relocation and other re-adjustments following the annuitant's death; and
7. the Estate Tax Act (SC 1958 c. 29) be amended to exclude from the aggregate net value of an estate the commuted value of survivor benefits payable on an annuity basis and related to a pension plan.

The Public Service Alliance sincerely believes that there is a serious and immediate need to take action to improve the position of all former public servants now receiving annuities. The Alliance, therefore, earnestly asks this committee to use its influence to persuade the Government to introduce legislation which will implement the above recommendations.

The balance of this book contains the various appendices that have been mentioned.

The JOINT CHAIRMAN (*Mr. Richard*): Is it the wish of the Committee that this brief be included in the minutes in toto?

Some hon. MEMBERS: Agreed.

Mr. KNOWLES: Mr. Chairman, I am sure that Mr. Edwards and his colleagues know that I think this is an excellent brief, but even so I would like to ask a

question or two. I am quite delighted with the emphasis that you place on the increases in the wage index and in standards of living generally, as factors that should be taken into consideration as well as the increases in the cost of living. But, I note that when you come to your specific recommendations on pages 23 and 24 of your brief, you are quite precise about automatic increases based on the increases in the consumer price index; but it seemed to lack a bit of precision on the other point. Now, may I say I have two questions, I would like you to speak further on why have you not come in with a formula related to the wage index as well? Then, if I may go back to the formula that you do have in your brief, namely an increase when the increase in CPI is 3 per cent, may I ask why you chose that in view of the pattern that has already been established in the Canada Pension Plan and the Old Age Security Act of an increase, when there is a 2 per cent increase?

Mr. MAGUIRE: Well, I think to answer the first question, the reason that we are precise, if you will, in our recommendations with respect to adjusting the annuities of superannuitants by the increase in the cost of living, is that we feel that (a) this is only fair if the purchasing power in their dollar is not—to decrease, if they are to be paid back in dollars worth those that they put in. And we feel that even by adjusting the interest rate alone, this will provide more than enough to compensate for this. In other words, if the interest rate were increased only to that—we recommend here 5 per cent—that would more than pay for such an increase in pension adjustments.

We are less precise, as you say, in our recommendation in respect of increases based on increased productivity, largely because we are not actuaries ourselves so we are not quite sure what the total cost would be to increase pensions on the basis of increased salaries to any extent. I think we would want to consult an actuary before we made any specific recommendations. This is why we are recommending that this Committee study this question and see to the extent—following our other recommendations—by which, in addition to increases to pensions based on consumer price index increases there could be additional increases to reflect increases of productivity, again reflected in the salary increases of active federal civil servants.

Senator MACKENZIE: Do you increase productivity with salary increases?

Mr. MAGUIRE: With real salary increases, yes.

Senator MACKENZIE: No, but I mean for your pension purposes. How do you measure the productivity of people in the civil service, other than through wage increases.

Mr. MAGUIRE: Well, this is the only basis we have, of course, for doing so.

Mr. KNOWLES: My point is, that in your brief, I think you make an excellent case for the necessity of our going higher than the cost of living increase. You make an excellent case for the right of retired civil servants to share in the general improvement that takes place in living standards. I would like to see you carry through with that, and make a recommendation of that kind. Now, I know I have already quoted the Old Age Security Act and the Canada Pension Plan, and I know that in the Canada Pension Plan the wage index is used prepayment not after, it is not post-payment. But there is such a thing as a wage index and it is available, and I am a little surprised that you did not recommend that the increases in annuities be based on the changes in the wage index.

Mr. MAGUIRE: I think we said prior to recommendation 4 on page 24, we ourselves think that this would be an equitable situation if you could adjust the pensions of federal government superannuitants, by the same increase as is reflected in the salaries of active civil servants. This is why we recommend this Committee consider the feasibility of doing this. We are not too sure, not being actuaries, what the total cost on the superannuation account would be. We feel that there is sufficient in there for it to be done, particularly if the interest rate were more realistic than it is now. We are not really too sure what the total cost would be, and this is why we ask this Committee to consider the feasibility of doing this. We feel it is a good thing, but we want you to consider the feasibility.

Mr. EDWARDS: I think too, much of this would flow from the changed policy of the government in regard to the superannuation plan, in fully funding or not fully funding the plan. Obviously, if the plan is going to remain fully funded, and on the basis of the contributions of employees having to meet this particular need, some of these suggestions would involve a higher cost, we would think, to the employee as well as the government. This of course would enter into our thinking in reference to changes. Therefore, it is perhaps difficult for us to be specific in this particular area, not knowing what the policy of the government might be, either towards an increased interest rate, or to move away from a fully funded plan.

Mr. KNOWLES: My experience with the government has been that if we can persuade it something needs to be done, they will find a way.

Mr. EDWARDS: I think we are trying to be as persuasive—

Mr. KNOWLES: In regards to general revenue, it can be an increase in the interest rate, or it can be an adjustment in the contribution rates. Our first problem is to persuade the government to do something.

While we are on this subject, may I ask you this: Since in your recommendations you seem to go for a straight percentage increase in annuities being paid, but in the light of some of the things in your brief, may I ask whether you would vary that percentage in relation to the number of years since retirement, or to other factors in the retirement formula?

Mr. MAGUIRE: Are you speaking now about the recommendation to increase pensions as living costs increase by 6 per cent. Do I have your question right?

Mr. KNOWLES: Unless I misunderstand it, your recommendation for an increase, on a percentage basis, is the same for the person retired several years as opposed to the person retired only a few years. Have you built into your recommendation anything that takes account of that difference. The person who retired 20 years ago and had 35 years service surely needs some recognition of the disadvantages that he suffered then as compared with the present.

Mr. EDWARDS: He would have to be brought up to something like the present before any escalation clause could really take effect from then on. Certainly, I would agree with you that there would have to be some recognition.

Mr. DESLAURIERS: Actually, Mr. Knowles, recommendation No. 2 is intended to take care of those who retired some time ago; in other words, before the present.

Mr. KNOWLES: Mr. Chairman, there again you do it only on the basis of the increase in the cost of living that has taken place in their case. In that formula

you do not, unless I do not comprehend it, take into consideration the other factors, the low level of pension in relation to the standard of living at the time they retired.

Mr. DESLAURIERS: Actually, recommendation 1 as well as 2 would help to increase the annuities of those actually retired, and for those retired prior to 1960, we are recommending here the recomputation based on a more favourable formula. With this, coupled with the recommendation in item 2, you would have a two pronged recommendation here to increase the annuities of those who retired some time ago, especially those who retired prior to 1960.

Mr. KNOWLES: I have just two more short questions and then I will yield to my friend the Senator. With regard to widows, to whom you refer in recommendation 6, you recommend that there be the continuation of the full annuity for one year after the death of the husband, shall we say. Do you make any recommendation with regard to the 50 per cent figure that is now in the act?

Mr. EDWARDS: No; we are not making a recommendation with regard to the 50 per cent in this brief.

Mr. KNOWLES: Is this because we are dealing only with those now retired?

Mr. EDWARDS: I think there will be some improvement as a result of the changes in the Canada Pension Plan as far as widows are concerned, which will partially offset the retiring widow in the future getting a different basis of pension by contributions under the Canada Pension Plan, in the effects they are static there with the annuity of the public service part of it; but this is a specific recommendation really for a year's period of grace before there is any change.

Mr. KNOWLES: But you are aware that there is a good deal of pressure for a 60 per cent or even a 75 per cent level?

Mr. EDWARDS: That is right.

Mr. KNOWLES: My only other question is this: You do not propose any ceiling, any cut off point at which retired civil servants would not get the benefit of any increases that a formula might provide?

Mr. EDWARDS: No.

The JOINT CHAIRMAN (*Mr. Richard*): I have on my list Mr. Chatterton, Senator MacKenzie, Mr. Ballard and Mr. Walker.

Mr. CHATTERTON: Mr. Chairman, Mr. Knowles touched briefly on the question of pensions for widows. Now, in due course, after the full benefit of the Canada Pension Plan, the survivor benefits apply, the widow's pension would be substantially increased over the 50 per cent which it is now. Had you considered making provision for those who are now widows and have been widows for some time as an interim measure until such time as the Canada Pension Plan survivor benefits apply. The same principle was adopted in the guaranteed minimum supplement, the supplement only applies until such time as the full benefits of the Canada Pension Plan apply.

Mr. EDWARDS: We have not included it in this brief. We have in previous briefs which we have submitted to the government. However, we feel if many of the adjustments were made here that perhaps the adjustments that could be

made would meet the requirements, but we do feel that there is a real problem as far as widows are concerned, particularly widows who are not only on a reduced 50 per cent of what their husbands were receiving, but because of the erosion of the cost of living they are in dire circumstances. We feel that the recommendations here would immediately increase the basis of all pensions and that this would be partially offset if this were done.

Mr. CHATTERTON: On page 21 you indicate that you may not completely object to putting your pension plan on a pay-as-you-go basis or a partially funded basis.

Mr. EDWARDS: Right.

Mr. CHATTERTON: Let us assume the government is not prepared to increase the rate paid from 4 to 5 per cent on a balance in the fund. If you went on a partially funded basis—assuming that what happens in the Canada Pension Plan might well happen to your plan—the Canada Pension Plan, is a partially funded plan and in a certain number of years the government of the day will have to increase the contribution rate—would you be prepared to take that risk, to go on a partially funded basis, knowing that the time may come when they have to increase the contribution rate in order to pay the benefits?

Mr. EDWARDS: I would think, with the balance in the suppression plan at the present time, that is not likely to come for a long period of time. Perhaps other situations may change at that time. I think we would have to take that risk, if there is a risk involved here, but with the balance in the plan that there is now, I cannot see this really happening for a long period of time. We are not suggesting in this brief that it should be a fully pay-as-you-go basis; but we do suggest that, with the security of the government of Canada, it is not like a small company opening a business and putting in a pension plan for its employees; for obviously the employees would want to make sure that it was fully funded in case the company went out of business, six months or six years later. If the government of Canada goes out of business, I guess our fund is not going to be much good to us anyway.

Mr. CHATTERTON: In other words, you do not think the civil servants would be apprehensive?

Mr. EDWARDS: I do not think so. I think that this would be part of our problem really of communication with our employees so that they would not be apprehensive. In my experience it has been decidedly the opposite. They look on the fact that the government is salting away in their coffers somewhere some \$2 billion, which they think of in terms of being their money and they are not able to get very much of it out. I do not think they are really apprehensive about going on a different form of funding.

Mr. CHATTERTON: If the government is not prepared to increase the rate and is not prepared to change from the fully actuarially funded basis, then the revenue would have to come—as it did in 1959—from the general treasury.

Mr. EDWARDS: That is right.

Mr. CHATTERTON: Would this apply not only to those already retired, but to the future escalation of the pensions?

Mr. EDWARDS: If the government felt that they had to do it in that way, I would say that this is the way it would be.

Mr. CHATTERTON: There was some indication by a previous witness, I think, that civil servants would be prepared to approve an increased contribution rate, provided there is assurance of automatic escalation of their future pensions. I am not talking about those already retired; I mean all future pensions.

Mr. EDWARDS: This might be true—

Mr. KNOWLES: If this were bargained.

Mr. EDWARDS: —if this was bargained as an improvement in the plan. I can see this happening some time in the future, perhaps not within the next year or two, but if bargaining does have an effect on the superannuation plan, as it well might do, there may be these changes on that basis.

Mr. MAGUIRE: I would like to add something to what Mr. Edwards said. I do not think we feel there is a great risk of this happening. Right now the surplus in the fund is something in the order of \$2,380 million.

Mr. CHATTERTON: Did you listen to Mr. Clark's evidence?

Mr. MAGUIRE: But this is a fact. As long as the country continues to grow and expand and the government itself continues to grow and expand as the population does, and there are more employees coming into the service than are leaving on retirement, you are always going to have more income coming into the fund than you have going out. This has certainly been the history of the fund in the last several years, and this is why even the employees' contributions alone, let alone the employers' share are almost equal to the total disbursements from the fund. We think the problem here is not one that is going to face us in the next few years.

Mr. CHATTERTON: I have one more question. If the government is not prepared to increase its payment from 4 to 5 per cent, would you be prepared then to recommend that they set up a board, such as they have in Australia, where the board invests the money?

Mr. EDWARDS: I would think that this would be a good possibility. We are more inclined to be concerned about the end result, rather than the means there is of achieving it. If the government were not prepared to increase the amount of interest, and a board might well be able to do it, then I think we would favour a board, if it were properly constituted and there were sufficient controls to ensure that the money was safeguarded.

Mr. CHATTERTON: Mr. Chairman, I would like to compliment the Alliance for this well prepared, excellent brief. It goes well for their bargaining in the future.

Senator MACKENZIE: I do not expect an answer to my question, sir, but it is in a sense related to what has been asked by Mr. Chatterton. You make something in your brief of the tax burden upon both the civil servants and the annuitants. Have you any idea of what that would total. How much of the pension that he receives does he pay back again into taxes. In a sense, I would say this would need investigation, so I am not asking—

Mr. EDWARDS: I do not have it personally, Senator MacKenzie, but I do not know whether my economist colleagues have or not.

Mr. DESLAURIERS: The sum total of all taxes paid, including property tax, federal and provincial taxes along with the sales tax would vary with the different groups of annuitants, because those who are in a better situation than others would have a higher burden, so to speak. But perhaps the underlying point here is that there has been an escalation in almost all major taxes.

Senator MACKENZIE: Is there an appreciable portion of the annuitant's benefit that he pays out again in taxes?

Mr. DESLAURIERS: Well, one could work out a typical example, but we do not have any such example here. One could assume that an annuitant earns such and such, a property was worth so much, and assume that he would purchase so much each year—

Senator MACKENZIE: My own feeling is that he does make a substantial payment in taxes out of the relatively modest—

Mr. EDWARDS: If I could comment on that, from letters I have received from annuitants, one of their biggest problems that they constantly relate in their letters is that they may be living in a home that they have lived in for the past 20 or 30 years, and at the time they went on retirement their income was sufficient to meet their municipal taxes and give them a modest standard of living; but they have now found that their municipal taxes, if nothing else, practically means that their whole income from their annuity is going out to pay taxes. They have cited cases where they might have been paying municipal taxes of \$100 that have now gone up to \$300, \$400 or \$500. If they get rid of their property, where are they going to find other accommodation and so on. It has been their home. This has been a serious burden—

Senator MACKENZIE: This is why I asked the question.

Mr. EDWARDS: I think it would be difficult for us in any way to show in either statistical form or charts—we do not have the facilities to do this; perhaps the government has made some studies on it—the degree of increases in taxes, particularly at a municipal level, because, as you know, they vary in all municipalities. Some have gone up much more rapidly than others.

Senator MACKENZIE: My other question is related in a sense to this. Social services, as I understand them, are made possible on the basis of tax money or an increase in the productivity of society. I take it that in asking for increased pension benefits, which I am in favour of personally, you are hoping this will be possible through increased productivity rather than through increased taxes which you and all the rest of us would share.

Mr. EDWARDS: I think our case—

Senator MACKENZIE: In other words, more of the annuity would go back in taxes, but it is something that we have to face in respect of our desire to get improved services.

Mr. MAGUIRE: I think, Senator, our charts will attempt to show our thinking here. We feel that inasmuch as the active wage earner is sharing in increased productivity, but the pensioner is not, an increase to his pension could be paid certainly to quite an extent out of the increased productivity.

Senator MACKENZIE: Yes, but if it comes out of taxes, the annuitant would pay his share of it, too.

Mr. MAGUIRE: Oh, yes. We feel that a great deal of it will be assumed through increased productivity.

Senator MacKENZIE: That is right.

Mr. BALLARD: Mr. Chairman, I would like to add my congratulations to those already expressed to Mr. Edwards for a very responsible brief presented by the PSA, and culminating in the very responsible and logical conclusions that he has drawn at the end of his presentation. There are a couple of questions I would like to ask for my own elucidation. On page 3, you are referring back to the adjustment that was made in 1958, and the only question I have there is, did the money for the increase that was granted at that time come out of the pension fund, or did it come out of the general revenues of Canada?

Mr. EDWARDS: It came out of general revenues.

Mr. BALLARD: At the bottom of page 15 and the top of page 16 you talk about the relationship with the old age security and its relationship to the pension of the PSA, the public service. You say:

...should be regarded as an offset against the deterioration which has occurred in another contributory entitlement earned by retired public servants.

The point I would like to make is that at the present time the pension that is paid to retired civil servants is, in your opinion, and I expect this opinion is general across Canada, an entitlement that is due to retired public servants as a result of contribution that they have made.

Mr. EDWARDS: That is correct.

Mr. BALLARD: I would like to suggest that this sort of attitude can only be continued provided the public service pension fund is fully funded. In other words, any increase that is granted should not come out of the general fund of the country, but should come out of the contributions that have been made by the civil servants during their working years, and the portion put into the fund by the government, according to their contract. I think this would be a very desirable trend to continue. Over the years the fund has built up through contributions from the public service and the government to now, according to your statement on page 21, over \$2 billion. As a matter of fact, it has been mentioned that there is \$2,380 million in the fund at the present time. I am wondering why you have not recommended that instead of the present situation, namely, this money being left with the government who pay you a straight 4 per cent interest, why this fund be set aside and run by a board of governors of the pension fund for investment in the business community of Canada. For example, with \$2 billion you could probably do a better job in this area than the proposed Canada Development Corporation. I think with this size of fund you could earn far more than 4 per cent, and you would be doing a public service that the government is now contemplating doing with the Canada Development Corporation. As a matter of fact, there is a public service fund I think, operating out of the city of Edmonton which is managed in this way, and they have been able to increase their return on investment to over 6 per cent. I suggest that the civil service pension fund could do the same thing. However, you did not make this as one of your recommendations and I was—

Mr. EDWARDS: We drew attention to a similar situation in Australia.

Mr. BALLARD: Yes, I appreciate that. I think that you probably should have made a point of suggesting that for the Canadian civil service pension fund.

Senator MACKENZIE: I have one question on this. Is it accurate to say there is \$2,318 million sort of lying around loose?

Mr. BALLARD: Oh, I did not suggest there was any cash lying around.

Mr. KNOWLES: That is the problem; we have to find the money first.

Mr. BALLARD: I said that there was a fund of \$2 billion, and if this recommendation was made—

Senator MACKENZIE: In the nature of a promise to pay on demand.

Mr. BALLARD: —and accepted. That is right.

Senator MACKENZIE: That is different from—

Mr. BALLARD: Yes, and what I was going to suggest was that if this recommendation was made and accepted, we would probably have to build up this fund over a period of time—maybe even 10 or 20 years before all of this money could be put into a fund in cash.

Now, on page 24, we find recommendation No. 4. I think Senator MacKenzie mentioned this point. How do you measure the productivity of the civil service? I do not think that you can and I do not think it is logical to measure it with the increase in the salaries because I do not think there is any relationship between productivity and increase in salaries. Productivity can only be measured where goods are turned out or turned over. I do not think you can measure productivity in the service field.

Mr. DESLAURIERS: I should like to mention here that the federal public service salaries do, in fact, at least they have in the last few years, especially since the inception of the Pay Research Bureau, follow pretty well on the general basis we are talking about here, salaries in industry, which include a large number of manufacturing firms. What we are reflecting in federal salaries at the present moment are actually productivity gains as reflected by salaries in industry made up of a large number of services, but essentially goods-producing firms. You could relate federal salaries here to an increase in the productivity on the outside, on that basis, without regard to the actual measurement of productivity if indeed you could measure this in the civil service, simply because we are essentially reflecting the outside industrial situation with our salaries in general.

Mr. BALLARD: Now, in recommendation No. 5 you are suggesting that the government increase the rate of return to the fund from 4 per cent to 5 per cent, and this presumably will pay for the increase in the annuities, as you suggest. You have not suggested any place that the contribution from employees be increased.

Mr. EDWARDS: No.

Mr. MAGUIRE: I think we pointed out in the brief examples where a higher increase could be earned if the pension funds were invested, with reasonable limitations over it to protect the security and the interests of the contributors, but we certainly feel that if, for example, although we have not specifically recommended it, the government wished to establish a government pension

board, or something similar to that in Australia, the interest invested in reasonably safe investments could produce certainly more than 4 per cent. I think Mr. DesLauriers has something on this, Mr. Chairman.

Mr. DESLAURIERS: I would mention that the present rate of contribution by employees, of course, is one of the highest, not only in Canada, but in the world. This is the 6½ per cent of earnings. There has to be some concern here about considering an increase in this already high rate of contribution by employees at the present time. This, of course, as has been shown up to now, has been employee contributions only, not only last year but for the last several years, and we can go back for quite some time—for a several number of years—and they have been more than enough to meet all annuity payments paid each and every single year. The actual paper contribution, if you will, or the government's matching contribution with special credits, has not been actually needed to meet this annuity package.

Mr. EDWARDS: Perhaps I might just add a word to that. I think this was also considered at the time we were discussing the impact of the Canada Pension Plan on the Public Service Superannuation Plan. There was consideration in some quarters as to the stacking of the two pension plans, but this would have meant that a male employee would have paid over 8 per cent into the superannuation plan. It was considered at that time that any increase in the contribution rate by an employee over 6½ per cent would be a pretty difficult burden, for, particularly the young employee, to carry over a long period of time. A 6½ per cent contribution to the superannuation plan was felt to be pretty much the maximum that you should expect from an employee at this time.

Mr. MAGUIRE: His pay-roll deductions would exceed his take-home pay.

Mr. BALLARD: Actually, I am quite concerned about your recommendation No. 2. This has already been mentioned. The method which you suggest for keeping pensions up to date, and I am sure the point has already been made, does not go far enough to take care of annuitants who have been in retirement for some time under the conditions that we have experienced over the past 20 years or so. For example, if we took a classification, say, of a clerk in 1949, who earned a salary of \$100 a month—I am just using \$100 as an example—that clerk in the service today would earn \$228 a month. Now, if that clerk had gone into pension in 1949, at a pension of \$100 a month, and you applied the formula that you suggest in paragraphs 1 and 2, the present pension would be \$145 a month; whereas, if a person holding the same type of job had retired in 1966, he would receive a starting pension of \$228. There you have two people retired from the civil service—one retired after 27 years would receive a pension of \$145 a month; whereas the one retired now would receive \$228 a month. This is a very real problem. I know that I have had several letters from retired civil servants and retired mounted policemen who have been retired for 10 or 12 years and their pensions are unrealistic in terms of today's standard. Actually the application of the formula which you suggest here of applying the consumer price index would not increase that pension enough to keep it in line with pensions of persons who are currently retiring. I think this would be a desirable standard to try and reach. I would like to hear Mr. Edwards' comments on that.

Mr. EDWARDS: Well, we certainly would not object to this, as you can well imagine. However, we think what we have suggested here is a pretty reasoned

approach, at least to have the annuitant in a position where his income would meet the increases in cost of living. Now, the increased productivity gains or salary gains—the employed worker may have a totally different basis of need as far as his income is concerned from what the annuitant may have. He may have a family to support; he may have children going through school, and he would have to have all the benefits of increasing salaries that he can achieve in his own occupation, his job and so on. Perhaps the needs of annuitants are not the same in all respects; but what we are concerned about is that at least their position should be no worse on the basis of what their income is at the time they retired, and as the cost of living goes up, at least there should be a matching increase at the very minimum. We certainly suggested that there should be improvements as well on the basis of productivity which is a reflection of salaries—the salaries have gone up outside—but we have not measured just how this would be. There are certain difficulties in here and we are limited in our resources to do a job on this; but certainly we would not object to what you are proposing if it were feasible. I would doubt very much whether we could achieve this at this particular time.

Mr. BALLARD: Well, actually your recommendation No. 4 then, where you discuss productivity, does apply to the previous annuitants—

Mr. EDWARDS: Oh, yes.

Mr. BALLARD: —the people who are already on pension.

Mr. EDWARDS: In fact, so does this No. 2. No. 2 of course is from the time a person was retired on pension, and if the adjustments that have been made—now, this would mean for a lot of people who have been retired for some length of time a considerable increase in pension, if this were applied.

Mr. BALLARD: Thank you.

Mr. MAGUIRE: If I could add to this, Mr. Chairman, I think what we are trying to say here is that there should be a starting point. We think the very least that should be done is to adjust the pensions in line with the increases in the consumer price index to maintain the purchasing power of the pensioners, but we go on to make a number of other recommendations. For example, I think the answer to your question, sir, is really our recommendation No. 4. I think what we would like to impress on the Committee is that we are not just recommending points 1, 2 or 3, but that we are making seven recommendations. We want the Committee to consider them in total, as a package, if you will, of recommendations from us. We do not think just one will do the job, but that it would take all seven to do the job.

Mr. BALLARD: Mr. Chairman, I would like to suggest to the Public Service Alliance that they consider giving some consideration to using their funds to go into competition with Canada Development Corporation.

Mr. WALKER: Mr. Chairman, this is an excellent brief and I can only reiterate what Mr. Ballard said. I consider it a very good and responsible brief. With respect to the question raised by Mr. Ballard and Mr. Knowles relating increases to the cost of living, to present wage increases and present salary levels, I think you were very wise, frankly, not to make any positive and specific recommendations along this line. I think you would have a terrible time trying to relate, even if identical jobs were still open today in the civil service, to what

there was 30 years ago, even if those identical jobs were there. I think the duties would be much different. I do not know how you could possibly relate the work, with all the reclassification that has been done, of a clerk grade 3, 20 years ago to the same clerk today. The standards are higher because the standards may be of—not just our public service—our whole labour force have had to be higher and there is much more technical knowledge needed. I think we should look into this matter, as you have recommended, but I see very great difficulties in relating a job of 20 years ago in the civil service to the equivalent job there is today. You probably feel this way yourself, I do not know, but I am sure that this was part of the reason you did not come out and make a positive recommendation that a superannuate should be able to relate his old job to an equivalent job today and make up the difference in the different wage levels. I do not think these two things can be related. Just one point—

Mr. KNOWLES: Mr. Chairman, before Mr. Walker raises that, and as he was kind enough to use my name, may I say that when we argue for recognition of productivity and these general phrases, we are not just speaking in general terms. I am quite specific. I say I would rather see the wage index used than the cost of living index. I think Mr. Walker is right, to go into all these other problems of the different classifications, and so on, would make a pretty difficult task, but there are these two indices. There is a consumer price index and there is a wage index, and I just think the wage index is a little more realistic in terms of changes in society now. Mr. Walker may not want to go along with my wage index idea, but I would just like to suggest that it is not as vague as the use of the word "productivity" might convey.

Mr. WALKER: I was thinking of it, I guess, in terms of the future. We are looking to the past now, but if you adopt that same principle for the future I just do not know how you can relate wages 20 years from now to what they are now, and assure present civil servants—

Mr. KNOWLES: Under the Canada Pension plan pensions are based on the changes in the wage index.

Mr. WALKER: On the cost of living. Well, at any rate, I have one other point. When the \$3.3 million was put into the fund in 1958, it came out of general revenue. It did not come out of the fund itself. Is this correct?

Mr. EDWARDS: This is correct.

Mr. WALKER: I suppose the reason it did not come out of the fund was that those in charge of the fund actuarially felt the fund could not afford that increase.

Mr. EDWARDS: This is my understanding and when Mr. Clark gets back I want to ask him—

Mr. WALKER: Well, if that is the case, and the contributions were put into the fund from outside, does this not in itself make the fund actuarially unsound? In other words, either the fund is actuarially sound and able to take care of its obligations, or it is not. If it can take care of its obligations it is actuarially sound, but if it cannot take care of its obligations and you have to pull in money from somewhere else, then does this not put the whole fund in question?

Mr. EDWARDS: Well, I think the fund was taking care of its requirements under the statutes, under the law. It was paying benefits, as it was required to do

under the particular regulation, to the superannuation fund. The pension adjustment act which was made was an act of parliament to increase pensions which were in payment by varying amounts. The government, rather than taking money from the fund, which apparently it could not do under the terms and conditions of the fund, had to make a contribution from general revenue in order to do this. I do not think this in itself upset the actuarial balance of the fund. If the fund was sound before in regard to what it was required to pay in reference to the calculation of annuities, it would still be the same way whether this was paid in or not.

Mr. WALKER: Yes, but my point is that I think these two things are related. If the fund is for the purpose of caring for obligations under the superannuation act and if the fund is not able to meet those obligations because of some other act that parliament has passed, I think we are only doing half a package. I think these two things must be linked together, and that if we are going to do anything now, from my own view, we should not, I feel, take some unilateral action in connection with superannuates without relating it to and involving the fund as it is. My own feeling is that these two things must take place at the same time.

Mr. EDWARDS: Well, in response to that, I would hope that whatever action the government takes would be on a basis of a continuing arrangement from here on in, not the case of a pension adjustment act to meet a particular need now—

Mr. WALKER: That is the point I am trying to get at.

Mr. EDWARDS: —but to meet the needs of annuitants not only now and those that have been retired for some particular period of time and are in these circumstances, but the needs of future annuitants on whatever basis is decided; either an escalation clause based on the index of salaries or on the cost of living index, or the consumer price index.

Mr. WALKER: One last question, Mr. Chairman. Did I sense a fine thread running through your whole brief substantiating the principle that the fund itself, either by a new concept of what the fund should do, should be able to take care of the obligations that are imposed upon it either by an act of parliament, or a unilateral act which might increase superannuates' present pensions?

Mr. EDWARDS: I would say the fund itself, I think, should be prepared to meet the obligations of whatever changes are necessary in order to do this for superannuates.

Mr. WALKER: Yes, and if, in order to meet those obligations it meant a different set-up of the fund, a different administration, doing what Australia has done or something else, is this the—

Mr. EDWARDS: Yes.

Mr. WALKER: —principle?

Mr. EDWARDS: Yes.

Mr. WALKER: This is the principle you are suggesting. Thank you.

The JOINT CHAIRMAN (*Mr. Richard*): I just want to call the attention of the members of the Committee, this morning,—and that is a very good brief we all agree,—we are getting a much broader picture once again of the whole question

of superannuation. I would love to, and, I have no objection to going into the superannuation problem, as we should face it for the future, although I am under the impression at the present time that we are trying to do something—as Mr. Knowles, Mr. Bell, myself and others have been trying for many years to do—to relieve a large number of superannuates who find themselves with somewhat very low pensions at the present time and I was hoping, like many others—I am sure I am not speaking out of turn—that this was the kind of job we could do. Now, if we are to go much more deeply into the question of the future situation, the fund itself, the provisions for superannuation in the future, I am afraid we will have to agree that this is a matter which will be—have to be investigated much more deeply; we will have to have a great many more witnesses, and probably a closer reference from the House of Commons on that subject matter, and that we will not be hoping for any immediate action on anything at all. I just mention this to the Committee. As I say I am quite willing to listen to all kinds of evidence on what the fund should be in the future, whether it should be handled by a board, whether the whole superannuation act is not properly based according to the present needs, but I also know that since we have passed the public service act that the interested parties are going to make some much more important representations, I am sure, in the future. Therefore I would like some guidance from the members of the Committee on how far they intend to go into this matter at the present time, since we are coming close to the end of the session.

Mr. KNOWLES: I think there is validity in your suggestion that if we go into this too deeply in terms of the future we might be so long at it that quite a few of these people we are immediately concerned about will die off; in fact, many of the people who are now in need and for whom we are concerned were future annuitants when some of us started this effort, a couple of decades ago. I would think that if we were to come up with a pretty sensible and responsible recommendation as to what should be done for those now retired, the government might be counted on to follow through on it. Whether we have the right within our terms of reference to make that suggestion in our report—I think we could.

The JOINT CHAIRMAN (*Mr. Richard*): But we could not go very deeply into it.

Mr. KNOWLES: No.

The JOINT CHAIRMAN (*Mr. Richard*): Without further evidence we could not do very much.

Mr. KNOWLES: I am as anxious as you are to get legislation that takes care of this problem on a continuing basis.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: But with regard to opening up the whole act, we may take too long to get action at this session. I would think that our problem might be solved a bit for us if we had some departmental people in front of us. I realize we had the officers that tell us what is going on, but I am thinking of the deputy minister, as to what the government might be prepared to put before us.

The JOINT CHAIRMAN (*Mr. Richard*): We still have to hear from Dr. Davidson and also from the RCMP and National Defence; but personally I am

getting very much interested in the whole question of superannuation, the question of a board, the question of the realistic rate of interest, the question of adjusting pensions according to the wage standard of the day, or consumers prices, etc. But I think that is a very long discussion. I am sure that you would not—I would not—and I am sure many members of the Committee would not to date, because I think as a matter of fact we have not discussed this in depth with previous witnesses.

I am sure even these witnesses would want some further assistance to give us some further clarification, if we are going into that problem and make any kind of suggestions—I just throw that to the Committee; if we are going to discuss this matter, we may be sitting weeks, and weeks, and weeks on it from now on, because some members of the Committee, I think, have not gone deeply into the questioning—on my suggestion, too—about future problems, and they might want to come back and ask questions.

Mr. KNOWLES: But we do want to make a report at this session.

The JOINT CHAIRMAN (*Mr. Richard*): That is why I spoke—either out of turn or in turn, I do not know.

Senator FERGUSON: Mr. Chairman, as you have not restricted the discussion today, even though some things mentioned might not come entirely under our terms of reference, there is one thing that I would like to ask the witnesses about. I would also like to compliment them, as so many others have done, on the very excellent, understandable and well documented brief that Mr. Edwards and his colleagues have presented to us, and I certainly think they are experts on these subjects. It is very wonderful for us to have them before us. The point that I want to bring up has not been discussed, but it is mentioned in the brief. On page 17, you refer to the tax liability of estates to pay commuted value of future annuity entitlements, and you mention that as the annuity payments themselves are subject to income tax, there should be no liability on the commuted value of future payments also. This is something that I have been interested in for a very long time, and as I see the reference to it, I would like to know if you would tell us if you consider that where these two taxes have been levied in the past, the individual annuitants have actually been taxed twice on the same money. You suggest in your recommendation No. 17, I think, that we do not have these two taxes. Would you mind telling us if you consider that this really is double taxation?

Mr. EDWARDS: Yes.

Senator FERGUSON: You consider this as double taxation.

Mr. EDWARDS: As long as it is tax on the income you get from your—

Senator FERGUSON: This is what I took from what you said, but I just want to know if you really meant that.

Mr. EDWARDS: I think this point, if I might add this, was also noted in the Carter Commission Report.

Mr. WALKER: I was just going to ask you, did they say anything about that?

Mr. EDWARDS: Yes, I think this was one of their recommendations.

Senator FERGUSON: Oh good; well I have not read the whole Carter report yet. To make this statement which you have, you must have had some experience

of cases of hardship. Do you consider real hardship cases have been caused by this?

Mr. EDWARDS: Yes; we have had evidence of cases where people have written to us and hardship has been created because of the estate tax liabilities.

Senator FERGUSON: Hardship to a very high degree, I mean; not just unpleasant.

Mr. EDWARDS: Of course, it varies. Certainly, I would think there is evidence of hardship to a very high degree.

Senator FERGUSON: Thank you.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Hymmen.

Mr. HYMMEN: I have a comment, Mr. Chairman. I appreciate your concern and Mr. Bell's and Mr. Knowles' interest over the years, but this is a very big subject. If we make an interim report to take care of the people on retirement now, we are going to do exactly what was done in 1958 or 1960 and say we cannot and are not prepared to consider the whole problem. The people who retire a year or two years from now and pass away are going to be in exactly the same position until the government of the future decides the over-all matter, and what are you going to do with it?

I just wanted to make another comment or two in regard to what Mr. Ballard said. We are on the summary now, but I have the same problem as Mr. Ballard with your recommendation No. 4, and I wish you had used some other word beside productivity, because my understanding is that the Economic Council of course mentioned that productivity over the country has not matched the increase in the gross national product. I fail to see where the civil service salaries, for example, have too much relation to this productivity—that was just my feeling.

Another thing was the concern of the people on retirement, retiring now and retiring in the future. I think it is a very big problem to try to relate salaries as Mr. Walker mentioned, because it is hard to relate the contribution of a person who is on retirement on a very low salary, a clerk of \$100 a month who paid, say 5 per cent, for 35 years and contributed over all in the period \$2,100, to a contribution by a later employee who has contributed over 35 years three or four times as much. This is a very big problem, and rather than make an interim adjustment, I wish this Committee or the government could try to resolve this problem. On the question of Bill No. C-170 in reference to what has been done in private industry through management and labour, is this going to be a matter for collective bargaining?

Mr. EDWARDS: No, not at the present time. It is excluded, you see, under the terms of Bill No. C-170, under the act. However, I think there is reason to believe that some time later it would be included, but at the present time it is not included.

Mr. HYMMEN: I think the main concern, from the charts you have shown us this morning, is the relation of the annuity to the purchasing power. I think if we could do something with that, we would be accomplishing a great deal, but the over-all question of wages and relation of past wages to present and future wages is a much bigger problem.

Mr. KNOWLES: Mr. Chairman, Mr. Hymmen knows that we all agree with him, in that we do not want just another piecemeal solution; that we want this problem resolved on a permanent basis if we can, but we do have the problem of our term of reference. I think we have to draft a report within that term of reference and I think we can. I think we can come up with a recommendation for the people now retired, and can recommend in a sentence or two in our report that the government give consideration to carrying this principle forward.

I remind Mr. Hymmen that as a Committee we do not legislate; we make the recommendation back to the house and at that point all of us can call on the government to carry forward for the future any plan that we worked out for the people now retired. But, like you, Mr. Chairman, I do not want us to go into such a detailed study of the whole superannuation problem, which we have had around for a hundred years, that we fail to report before this session prorogues, as might happen some time this year.

The JOINT CHAIRMAN (*Mr. Richard*): So I said, Mr. Knowles, I would be very adverse to making any recommendations for the future just on the basis of the evidence which has been heard, or can be heard within the short time that we are going to be sitting. I would be much more interested personally in any recommendations that would say that either this Committee or a similar committee be formed immediately in the next session, to study this, because I think, and you will agree with me, that it is a very interesting subject and it would be almost as important as a Bank act as far as I am concerned, for the civil servants anyhow.

Senator FERGUSON: This about all we can do, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions for the witness this morning?

(*Translation*)

Mr. ÉMARD: As an ex-union man, I would like to congratulate very sincerely the Public Service Alliance of Canada for the quality of the brief which they have submitted this morning.

I did not expect any less from them. I appreciate the fact that the Alliance have decided to be concerned with the retired civil servants, even if they are no longer members. The Alliance has shown its sense of responsibility by doing more than its duty, it is a decision which is a credit to it and is in the best tradition of the Union Movement.

I would like an explanation with regard to the increase given in 1958, I was told, to 15,000 employees earning less than \$3,000 a year. Has this increase been given only for the year 1958, or have the amounts been given for a readjustment?

(*English*)

Mr. EDWARDS: The amounts that were granted have been a continuing amount. An adjustment was made at that time for people retired before 1953. If those people are still living, they are still getting the increase that was granted at that time.

(*Translation*)

Mr. ÉMARD: Now why is it that in your brief you always refer to the year 1953, why not start from the year 1958?

Mr. DESLAURIERS: Because it is since 1953 that there has been no change. This was years ago. In other words those who retired since the 1st of January, 1953 did not get any change in their annuities.

Mr. ÉMARD: But you told me that in 1958 when there was a certain amount allowed to those 15,000 retired people. Did this not remain in their pension?

Mr. DESLAURIERS: Those who have retired after 1953 have enjoyed no increase, neither in 1958 nor even from 1953. It applied only to those persons who retired before 1953, even if this has been announced in 1958.

Mr. ÉMARD: Therefore, that which was done in 1958 was only for the period before 1953?

Mr. DESLAURIERS: Yes.

Mr. ÉMARD: This is what I did not understand. Now, if we would like to stay within the terms of reference given to us as a Committee, I think that, at the present time, we are all convinced that we must do something to rectify particularly the pensions of those who are now retired.

We have had a choice between several formulas presented to us, which we could discuss later on, but I think that the main problem is where are we going to find the funds. We can always say that funds can be contributed by the government. But if we look at some of the formulae presented, I think that the cost would be so high that the government would not be able to agree to all the formulae presented. Now, there is one question I have. I think that this is a curious fund. It is a fund while not being a fund. It is actually not a fund at all. We are told that the money is deposited and that the government, instead of using this money and keeping it there, puts it in a fund and uses it for something else, and when the time comes to pay for the pensions, the government dips into its own fund to pay these. Now, there is one thing which I would like to know and that is: what is the share of the government in the employee pension fund? Is the government supposed to contribute the same amount of money to the fund as the employees for their pensions?

(English)

Mr. EDWARDS: The government contributes the same amount. It contributes in excess of what the employees contribute because it must keep the fund in balance and it must make continued contributions in order to do this as required after the actuarial evaluation of the fund. It has to bring it up, and this means a constant requirement on the Government to maintain the fund at the actuarial level so that it has been—I cannot give you the exact percentage but I believe the government in its contributions is contributing about double what the actual employees' contributions are.

(Translation)

Mr. ÉMARD: But the government did not promise to contribute the same amount as the employees, did it?

(English)

Mr. EDWARDS: No. I do not think it is a case of a promise to contribute the same amount. The government is required under the terms of the superannuation act to keep the fund actuarially in balance and it has to make the contribu-

tions on that basis. It makes contributions in keeping with what the employee makes but it makes these additions as well.

(Translation)

Mr. ÉMARD: The government also pays an interest of 4 per cent, does it not?

(English)

Mr. EDWARDS: That is correct.

(Translation)

Mr. ÉMARD: On the money in the fund. Is this simple interest or compound interest? This may be a question for an actuary, but I thought perhaps you might know about this.

(English)

Mr. EDWARDS: I believe this is it.

Mr. MAGUIRE: Compounded, 1 per cent quarterly.

Mr. EDWARDS: Compounded, 1 per cent quarterly, I believe.

(Translation)

Mr. ÉMARD: Now, if I understand correctly, the government does not pay interest on the amount which it is supposed to contribute to the fund. For example, in an industrial fund, the employees contribute 50 per cent and the company contributes 50 per cent also. In this case, this money is put into a fund and the interest, the compound interest, is paid on all the money deposited in the fund. This is also a question which I should ask of the actuary. But does the government pay interest on the money deposited or which it is supposed to have deposited itself? I think that this is very important.

(English)

Mr. EDWARDS: I believe it paid interest on the full amount of the fund.

(Translation)

Mr. ÉMARD: Which includes the money which the government has deposited itself. This is about all I had to ask.

(English)

The JOINT CHAIRMAN (Mr. Richard): Are there any other questions?

Mr. KNOWLES: I am sorry I had not discovered earlier how to turn that heat up.

The JOINT CHAIRMAN (Mr. Richard): Well, Mr. Edwards and gentlemen, I thank you very much. It was a very good brief. By my remarks I do not want to imply that the questioning we have had this morning is sufficient if we are to go into all aspects of what you have brought before us. I hope you did not misunderstand me. I believe that this brief deserves a great deal more questioning and a great deal more attention than the few hours that we have given it this morning, and I have no reason to say this; I am only the Chairman. I would hope that there would be a future opportunity for this Committee or a similar committee to meet where we can go into this in the proper manner.

Mr. EDWARDS: We would agree with you that first things might come first.

The JOINT CHAIRMAN (*Mr. Richard*): I do not want you to think that these are the only questions that this Committee feels it should ask or the only information it should elicit from you at the present time.

Mr. EDWARDS: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): You have done a good job. Thank you very much.

APPENDIX "Y"

SUPERANNUATION PLANS OF PROVINCIAL AND FOREIGN GOVERNMENTS

The following brief descriptions have been prepared on the features of the Superannuation Plans which appear to be of greatest relevance to the present study of the pensions of retired civil servants by the Special Joint Committee of the Senate and the House of Commons on the Public Service of Canada.

British Columbia: Basic Pension Provisions

The normal pension formula applying to a former civil servant is now calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the last ten years). Those employed prior to 1958 have the option of taking the benefits under a money-purchase plan to which they previously contributed if the benefits under it are higher than the normal formula. These formulae are subject to reduction in the future due to co-ordination with the Canada Pension Plan. Retirement on immediate pension can take place on account of age at 60. Survivors' benefits are provided.

Funding

Employee rates of contribution are determined according to schedules and depend on the age of the employee at the time at which he became a contributor. They ranged from 4% to 10%. Canada Pension Plan contributions are deducted from the contribution. Employee contributions, together with an equal amount from the employer, are paid into the Civil Service Superannuation Fund which is part of the Consolidated Revenue Fund.

The Minister of Finance may invest in prescribed securities any monies in the fund not required for foreseeable commitments. Separate accounts are kept for each contributor showing the amount to the employee's credit to the fund and interest at the rate of 4% is credited by the Minister of Finance to each account on the last day of March and September in each year.

Pension Increase

In 1958 legislation was passed that provided for persons who retired with 25 years service or more before April 1, 1958 a supplementary allowance in the amount of \$5 per month plus an extra \$1 per month for each year of service over 25 years. Widows would get half the amount provided they were married before the contributor reached 60 and before he retired. In 1960 legislation was passed to provide for employees who had less than 25 years service. They received:

\$4 per month if service was greater than 20 and less than 25
 \$3 if service was greater than 15 and less than 20
 \$2 if service was greater than 10 and less than 15.

Widows received half that amount for those applicable years of service. In 1962 there was legislation that provided for a further supplementary allowance provided that the contributor had at least 10 years service. It was provided according to the following table:

<u>Period of Retirement</u>	<u>Monthly Allowance</u>
up to March 31, 1949	\$10
April 1, 1949 to March 31, 1950	9
" " 1950 " " 1951	8
" " 1951 " " 1952	7
" " 1952 " " 1953	6
" " 1953 " " 1954	5
" " 1954 " " 1955	4
" " 1955 " " 1956	3
" " 1956 " " 1957	2
" " 1957 " " 1958	1

More recently there has been an Act to amend the Civil Service Superannuation Act which provides for a still further supplementary allowance to be provided according to the following table:

<u>Last Period of Service</u>	<u>Allowance per month for each year of service</u>	<u>Widows etc.</u>
up to March 31, 1955	\$1.00	\$.70
April 1, 1955 to March 31, 1956	.90	.63
" " 1956 " " 1957	.80	.56
" " 1957 " " 1958	.70	.49
" " 1958 " " 1959	.60	.42
" " 1959 " " 1960	.50	.38
April 1, 1960 to March 31, 1966*	.50	.38

* only until OAS payments start.

Throughout the Supplementary Bonus enacted by the B.C. Legislature there is no relation made to average salary or amount of pension of contributor. The increases are paid out of the Consolidated Revenue Fund.

Alberta:

Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of either his average salary over the highest 5 year period or \$8,000 whichever is the lesser). This is subject to adjustment in the future due to co-ordination with the Canada Pension Plan on a basis not too different from that under the federal Public Service Superannuation Act. Normal retirement age is 65 and survivors' benefits are provided.

Funding

Employee contributions (up to \$900 p.a.) at the rate of 5% of salary are credited to the General Revenue Fund. Interest at the rate of 4% per annum is credited to each employee's account. The Provincial Treasurer appropriates from the General Revenue Fund sufficient monies to provide each year for the payment of all superannuation benefits under the Act, with payments guaranteed by the Government.

Pension Increase

The Superannuation Increase Act of 1959 provides to those persons receiving pensions under the Superannuation Act, (which does not apply to present employees but only those retired up to April 1, 1957) a supplementary allowance of \$1.25 per month for each year of service. The total of this supplementary allowance and the pension payable under that Act cannot exceed \$150 per month.

Saskatchewan:

Basic Pension Provisions

The pension of a former civil servant is now calculated by multiplying (the number of years of service up to 35) by (2% of the average salary over the highest 6 year period of service). The maximum pension is \$6,000. Co-ordination with the CPP is similar to that under the Federal PSSA. Survivors' benefits are provided.

Funding

There are no special funding arrangements. Employee contributions of 6%, 7%, or 8% of earnings depending on the age of the employee at the commencement of employment. Each year the Legislature appropriates sufficient funds to provide for all superannuation benefits, with payments guaranteed by the Government.

Pension Increase

Legislation in 1965 provided that a superannuated employee shall receive an additional \$10 per annum for each year or portion thereof, of service up to 35. It also provides for \$5 per annum to widows or dependent husbands. The total for those respective

groups must not exceed \$2,400 per annum and \$1,200 per annum, respectively, including the basic pension.

In addition there have been a series of cost of living adjustments under which at present certain former employees or their widows with pension of less than \$100 may have them increased by up to \$70 so long as this does not bring the pension plus supplement beyond \$100. These are now paid until the Old Age Security Pension becomes payable to persons retired prior to April 1954 but a bill has been before the provincial legislature this month which would extend these payments to those retired before April 1, 1958.

Manitoba:

Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his salary on the last 10 years of service.) This is subject to adjustment in the future due to co-ordination with the Canada Pension Plan on a basis not too different from that under the federal PSSA. Normal retirement age is 65½. Optional survivors' benefits are available through an actuarial reduction of employee's pension.

Funding

The Act provides for the establishment of a Civil Service Superannuation Fund. The Fund is credited with employee contributions equal to 4.4% on the CPP earnings and 6% on the remaining salary and a contribution by the Government, which is provided at the time pensions are paid. In addition the Government pays interest on an accrued liability of the Fund assumed by the Government for persons who were employees immediately before May 1, 1939. The monies in the Fund less such amount necessary to meet current expenditures may be invested and uninvested monies are kept on deposit in a chartered bank.

Pension Increase

The earlier plan of 1954 provided for an allowance of 1 2/3% for each year of service times the career average earnings, i.e. the average over his full period of service. When the Act was amended to provide for a 2% benefit for each year's service times the average salary for the last 15 years before retirement (this has since been changed to 10 years, as mentioned above), a special clause was put in which had the effect of granting to every employee who had retired under the career average earnings formula, a pension calculated on the 15 year average basis effective April 1, 1961. If this increase in pension, by going from one formula to the other, did not provide the employee with an increase equal to 4% per annum of his annual annuity, then he would receive such an increase.

Effective January 1, 1965, when the last 15 years was replaced by the last 10 years in the pension formula, all pension in pay were recalculated on the new basis, and any increase resulting from this recalculation was paid to the retired pensioner.

Ontario:

Basic Pension Provisions

The pension of a former civil servant is now calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the CPP on a basis similar to that under the federal PSSA. Ten years of service are required to qualify for the pension. Survivors' benefits are provided.

The pension was formerly based on an average salary over the last three years but this was changed to a 10 year basis and more recently to the highest five year period.

Funding

The Superannuation Fund is made up of employee contributions, presently 6% less the CPP contribution, matching employer contributions and interest on the balance remaining after benefits are paid as well as interest on the deficit in the Fund which is a liability of the government.

Pension Increase

Effective January 1, 1967 all pensions are to be increased to \$1200 per annum in respect of former civil servants on pension and to \$600 in case of widows of former civil servants regardless of date of retirement or length of service so long as the 10 years required to qualify for the basic pension were completed. The cost of these increases is met by the Government of Ontario.

Quebec:

Basic Pension Provisions

The pension of former civil servants is calculated by multiplying (the number of years of service up to 35) by (2% of his salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the QPP on a basis similar to that under the federal PSSA. Ten years of service are required to qualify for pension. Normal retirement age is 65 but pensions may be granted at an earlier age when 35 years service has been reached. Survivors' benefits are provided.

Funding

There is no funding. Employee contributions are recorded in the provincial books as "Appropriated Surplus". Expenditures on pension benefits are recorded as ordinary expenditures of the Department of Finance.

Pension Increase

An Act of 1960 provided that where pensions granted prior to March 31, 1961 were less than \$3,000 (or in the case of widows' pensions less than \$1,500) they should be increased by the following percentages, dependent upon the calendar year in which the pension was granted:

(1) <u>Calendar Year</u> <u>(inclusive)</u>	(2) <u>Percentage Increase</u>
up to end of 1939	30
1940 - 1944	24
1945 - 1949	18
1950 - 1954	12
1955 - 1959	6
1960 - March 31/66	3

The increases under this section can not provide a total pension of more than \$3,000 nor a total widow's pension of more than \$1,500.

Effective January 1, 1961, provision was made whereby any pension or widow's pension would be increased to \$660 provided that the pensioner could not avail himself of the Old Age Security Act, Blind Persons Allowances Act or the Act respecting assistance to Disabled Persons. This minimum was increased to \$780 effective February 1, 1962 and to \$900 effective April 1, 1964.

New Brunswick:

Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the CPP on a basis similar to that under the federal PSSA. A minimum of 10 years service is required and normal retirement age is 65. Survivors' benefits are provided.

Funding

The Superannuation Fund is made up of employee contributions, presently 6% of salary less the CPP contribution, together with interest from the investment of the balance remaining after the benefits are paid. If the Superannuation Fund is insufficient to make payments required under the Act, the Provincial Secretary-Treasurer is directed to pay into the Superannuation Fund, out of the Consolidated Revenue Fund, an amount sufficient to enable superannuation benefits to be paid.

Pension Increase

There is no provision for increasing pensions in pay.

Nova Scotia: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest five year period). This is subject to adjustment in the future due to co-ordination with the CPP on a basis similar to that under the federal PSSA. However, since contributions on salary exceeding \$6,000 p.a. are optional those who do not elect to make these contributions can use an average salary of the last three years (instead of the best five) providing this does not yield a pension exceeding \$4,200 p.a. A minimum of 10 years service is required and normal retirement age is 65 for males and 60 for females. Survivors' benefits are provided.

Funding

The Superannuation Fund is made up of employee and matching employer contributions, as well as interest earned from the investment of the funds not immediately required for benefit purposes as well as interest on the invested monies. Employee contributions are 5%, 5½% and 6% for males depending on salary and 5% for females. Should this prove inadequate to pay benefits, there is authority for payment from the Consolidated Revenue Fund of the Province.

Pension Increase

A cost of living bonus has been paid since the 4th day of June, 1948 pursuant to an Order in Council to certain persons in receipt of pensions under the Public Service Superannuation Act. Effective April 1, 1966 the Order in Council of the 25th of April revoked that bonus and provided a new bonus described below to persons whose income inclusive of the cost of living bonus did not exceed \$1260 per annum. Income for these purposes includes all allowances, gratuities and contributions received whether in cash or in kind and this is administered by the Department of Public Welfare. Those in receipt of Old Age Security pension prior to the effective date will not include that amount as income, but those who qualify after the effective date will use OAS pension in determination of their bonus. Anyone in receipt of assistance under the Old Age Assistance Act is not entitled to a bonus. The bonus is as follows:

<u>Pension</u>	<u>Bonus</u>
\$600 and under	An amount sufficient to increase the pension to \$780.00
\$601.00 to \$700.00	20% of pension, plus \$60.00
\$701.00 to \$800.00	An amount sufficient to increase the pension to \$900.00 or 15% of the pension plus \$60.00, whichever is greater.

(Continued)

<u>Pension</u>	<u>Bonus</u>
\$801.00 to \$900.00	An amount sufficient to increase the pension to \$980.00 or 10% of the pension, plus \$60.00, whichever is greater.
\$901.00 and over	An amount sufficient to increase the pension to \$1,050.00 or 5% of the pension, plus \$60.00, whichever is greater.

In no case shall the amount of the Bonus be such as to increase the income of a pension to an amount in excess of \$1,260.00 per annum. (These "bonuses" are paid from the Consolidated Revenue Fund.)

Prince Edward Island: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of years of service up to 35) by (2% of his average salary over the highest three year period). A minimum of 10 years service is required and the normal retirement age is 65 for males and 55 for females. Survivors' benefits are provided.

Funding

Employees contribute into the Superannuation Fund at a rate of 5% for no more than 30 years. Benefits are paid out of a Superannuation Fund and if at any time there are insufficient funds to make such payments the Provincial Treasurer is directed to make payments out of the Consolidated Revenue Fund sufficient to enable the benefits to be paid.

Pension Increase

Up to the end of January 1967 no pension of a retired civil servant had been increased.

Newfoundland: Basic Pension Provisions

Normal provision is that obtained from multiplying the number of years of pensionable service by 1 3/4% of the average salary over the last three years provided, however, that if the average salary is \$1,000 or less, 2% will be used instead of 1 3/4% and that a pension calculated on the 1 3/4% basis should not be less than if the average salary had been \$1,000. In addition the pension cannot exceed 2/3 of the average salary over the last three years. There are no survivors' benefits.

Funding

There is no funding as there are no contributions. It is a simple pay-as-you-go plan provided by the provincial government.

Pension Increase

In 1961 legislation was passed which provided for increase to those in receipt of pensions on December 1, 1961, on the following basis:

Category

Pension p.a.

up to \$600	25% or up to \$600 whichever is greater
\$600 - \$800	20%
\$800 - \$1000	15%
\$1000 and over	10%

In 1965 the above provision was amended to include all persons then receiving pensions and those who shall hereafter receive a pension from the province.

There is a general proviso in this legislation that a person in a higher category should not receive a pension smaller than the highest pension of the person in the next lower category.

The Northwest Territories and Yukon Territory

The employees of the Government of these Territories are included under the Public Service Superannuation Act of Canada.

Britain: Basic Pension Provisions

The pension of a former civil servant is calculated by multiplying (the number of completed years of service up to 40) by $(1/80)$ of the average salary during the last three years). The normal retirement age is 60 and a minimum of ten years of service is required to qualify for a pension. The basic pension of a civil servant is provided entirely by the Government. In addition there is a lump sum payment equal to three times the amount of the annual pension.

Survivors' benefits are not automatically provided but may be obtained under certain conditions by exercising an option to provide the actuarial equivalent of a portion of his pension to his wife or a dependent.

In addition survivors' benefits may be provided if the civil servant elects to contribute for them.

It should be noted that these employees participate under the part of the national plan which provides flat rate benefits but not under the part which provides graduated benefits related to earnings between certain limits.

Funding

Benefits are paid out of the Consolidated Fund. Contributions are paid into the Exchequer.

Pension Increases

The history of pension increases in Britain is reflected in the Pensions (Increase) Acts of 1920, 1924, 1944, 1947, 1952, 1954, 1956, 1959, 1962 and 1965. Until 1956 the increases were, in effect, subject to a means test since they did not apply to those whose incomes were above a certain level. In that year these limitations were removed but a maximum increase in pounds was provided.

Under subsequent Acts a sliding scale of percentages has been applied to increase existing pensions, i.e. the basic pension plus previous increases.

Thus the 1962 Act provided the following rates of increase:

For pensions beginning	Per cent.
On or before 1st April 1956	12
Between 2nd April 1956 and 1st April 1957	10
Between 2nd April 1957 and 1st April 1958	8
Between 2nd April 1958 and 1st April 1959	6
Between 2nd April 1959 and 1st April 1960	4
After 2nd April 1960	2

while the 1965 Act provided

For pensions beginning	Per cent.
On or before 1st April 1957	16
Between 2nd April 1957 and 1st April 1958	14
Between 2nd April 1958 and 1st April 1959	12
Between 2nd April 1959 and 1st April 1960	10
Between 2nd April 1960 and 1st April 1961	8
Between 2nd April 1961 and 1st April 1962	6
Between 2nd April 1962 and 1st April 1963	4
Between 2nd April 1963 and 1st April 1964	2

These two tables illustrate the recent pattern which has been adopted when a new Pension Increase Act is introduced.

United States: Basic Pension Provisions

The pension formula contains alternative methods of calculation but the basic method involves the use of the average salary over the highest consecutive five-year period with a maximum of 80% of that average, thus

- (a) Take: $1\frac{1}{2}$ percent of the "high-5" average salary and multiply the result by 5 years of service;
- (b) Add: $1\frac{3}{4}$ percent of the same "high-5" average salary multiplied by years of service between 5 and 10;
- (c) Add: 2 percent of the same "high-5" average salary multiplied by all service over 10 years.

Survivors' benefits are available unless the employee requests in writing that none be paid. If no such request is made then the employee's annuity is reduced.

It should be noted that an employee who is contributing under the Civil Service Retirement Act is excluded from contributing under the national Old Age, Survivors and Disability Insurance Plan. However, before an employee becomes a contributor he is covered under the national plan.

Thus the only overlapping of the two plans occurs in respect of that early service if the employee chooses to pay for it once he comes under the Civil Service Retirement Law.

Funding

Contributions by employees are now $6\frac{1}{2}\%$ of salary and these are matched by the employing Agencies. These are credited to the Civil Service Retirement Fund which is invested in Government securities.

Pension Increases

The pattern of pension increase policy has been somewhat similar to that in Britain. There has been provision for augmentation of civil Service pensions after retirement for a number of years. Up to 1958 the increases there, however, did not apply to the highest pensions for where the full increase would bring the pension above \$4,104 only the amount required to bring it to that level is paid. In 1958 legislation authorized a further increase of 10% on all pensions being paid to those retired before October 1, 1956 subject to a maximum increase of \$500 in case of former employees and \$250 in case of widows.

By 1964 future adjustments in the annuities of retired employees and survivors were geared to percentage rises in nationwide living costs as measured by the Consumer Price Index, as follows: "Beginning in January 1964, yearly changes in the nationwide cost of living will be reviewed by the Civil Service Commission. Effective April 1 of any year the Commission finds living costs have risen at least 3 percent since 1962 (or since the year before the most recent cost-of-living increase granted after 1962), annuities which commenced earlier than January 2 of the preceding year will be increased by a percentage equal to the rise in living costs." However, this method was short-lived.

Legislation was passed during 1965 to provide for certain increases effective December 1, 1965. This legislation was designed in part to remove certain anomalies arising out of previous legislation of this nature and established a new basis for automatic adjustment in the future.

Apart from some special provisions related to survivor benefits of employees who died prior to April 1, 1948, the main adjustment was to increase annuities which

commenced on or before October 1, 1956, by 11-1/10% and those which commenced after October 1, 1956, but no later than December 1, 1965, by 6-1/10%. These are in addition to increases authorized by previous legislation.

The general rule for increases in the future is that whenever the cost of living, nationwide, goes up by at least 3% over the monthly price index used as a basis for the last previous cost-of-living annuity increases, and stays up for at least three months in a row, an increase equal to the percentage rise in living costs will be granted automatically. This permits such a change to be made at any time during the year whereas the previous law permitted such a change only on the 1st of April after a three per cent increase since the previous adjustment had taken place.

Continental Europe

In Continental Europe the usual procedure appears to be to use a form of wage index to adjust the pensions of civil servants. This is so in France and West Germany.

APPENDIX "Z"

PUBLIC SERVICE ALLIANCE OF CANADA

BRIEF
TO THE PARLIAMENTARY
SPECIAL JOINT COMMITTEE
OF THE SENATE
AND
THE HOUSE OF COMMONS
ON
THE PUBLIC SERVICE OF CANADA

CONSIDERING ADJUSTMENTS TO ANNUITIES
FOR
SUPERANNUATED PUBLIC SERVANTS

February, 1967

Introduction

The Public Service Alliance of Canada welcomes this opportunity to present a brief on behalf of retired public servants who are faced with the increasingly frustrating problem, not only of maintaining a reasonable standard of living, but of making ends meet on fixed incomes in a moving economy, experiencing year after year, sizeable gains in the consumer price index and in the index of real wages. Large numbers of annuitants are undoubtedly becoming second-class citizens in comparison with their neighbours and members of their community because of the constant erosion of their purchasing power. The disparity is further emphasized by increases in the standard of living being enjoyed across the nation by millions of other people who benefit from steadily increasing gains in productivity.

We would like to make clear at the outset that wherever in this presentation we make reference to retired federal public servants and annuitants, our intention is to include retired members of the Armed Forces and of the Royal Canadian Mounted Police. Also, the term annuities, as we use it, is intended to include allowances payable to or in respect of widows, and surviving children, where applicable.

There is, of course, no need for us to remind this committee that annuities of retired federal public servants have not been increased since 1958. Even then, the authority ultimately contained in the

Public Service Pension Adjustment Act of 1959⁽¹⁾ permitted increases effective July 1, 1958 only for certain annuitants who were superannuated prior to 1953. We will return to this point later.

The reasons given by the then Minister of Finance for payment of increased annuities are set forth in pages 2757 to 2759 of the Hansard of July 28, 1958, and again on page 4716 of the Hansard of June 15, 1959. Briefly, they refer to a combination of increases in both the cost of living and the general salary levels of Federal public servants from 1946 to the date of the Minister's statement. In other words, it was recognized by the government of the day that superannuated public servants living on fixed incomes should not be victimized by the continuous erosion of the purchasing power of their annuities due to increased living costs, without some relief being provided by their former employer. Nor was it felt that their position should worsen, vis-a-vis active employees benefiting from regular salary revisions.

There has long been an obvious need to do something further, not only for public servants who retired before 1953, but also for those who have retired in the intervening years. Having regard to the reasons given by the Minister of Finance in 1958 as previously mentioned, and the steady erosion which has since occurred in the purchasing power of the dollar, the Public Service Alliance of Canada and one of its predecessor organizations, the Civil Service Federation of Canada, have

(1) The initial authority for increases effective July 1, 1958 was contained in the Pension Increase Regulations, 1958 PC 1958 - 1366, made pursuant to Appropriation Act No. 5, 1958. This authority expired on March 31st, 1959 and was succeeded by the Public Service Pension Adjustment Act of 1959. The latter perpetuates the authority contained in the former.

made submissions in each of the last four years, exhorting the government to fulfil the role of a good employer by taking action to alleviate this increasingly serious situation by seeking the necessary parliamentary authority to increase annuities of retired public servants. The Public Service Alliance feels that an equitable way to do this on a permanent basis would be to follow the practice of the Government of the United States whereby annuities of retired federal public servants are automatically increased on the basis of increases in the consumer price index. We will refer again to this later.

We suggest that there is no need to spell out to this committee details of the formula by which annuities were increased in 1958. Such details are carefully set out in the Public Service Pension Adjustment Act of 1959 and its attached schedules. It is perhaps sufficient to say here that the increases apply to all superannuated public servants whose annuities did not exceed \$3,000 a year, and to widows whose allowances did not exceed \$1,500 a year. At that time, the increases applied to some 15,400 of a total of approximately 25,000 annuitants. For the full year 1959 the cost was \$3,300,000.

In 1958 the Minister of Finance said that it did not seem to the government to be fair to annuitants with long service to supplement only very low annuities. It was equally clear, he stated, that a flat percentage increase in all annuities would be inequitable and would favour those enjoying larger annuities, particularly those recently retired. Consequently, annuitants retired ten years previously, he said, had a higher claim to increases than those more recently retired whose annuities

were more closely related to current salary scales. As a result, the allowances granted provided for increases in annuities varying from 32% of the first \$2,000 of annuity for those who retired prior to March 1947 whose annuities were calculated on a ten-year average salary basis, down to 2% for those with similarly calculated annuities who retired prior to December, 1952. Lesser amounts were granted to annuitants whose annuities were calculated on a more favourable basis. However, these are among the details set out in Schedules B and C of the Public Service Pension Adjustment Act of 1959.

The main point we wish to make here is that the government realized at the time that annuitants on fixed incomes, whose annuities were earned in periods of relatively low earning power, needed assistance in order to maintain a reasonable standard of living. The government of the day took steps to provide some measure of assistance.

Salary Increases

Between January, 1953 and June, 1966 (the latest date for which data are available), average weekly salaries of salaried employees of the Federal Government have increased from \$54.54 to \$102.96 (88.8%). From July, 1958 (when certain annuities were increased by the Pension Adjustment Act), to June, 1966, salaries increased from \$71.71 to \$102.96 (43.6%). Since annuities granted now are based on the best six consecutive years of service (which in most cases are the last six years), it is evident that civil service employees retiring now are entitled to annuities which are considerably higher than those in payment to annuitants who retired only a few years ago in otherwise corresponding circumstances.

In addition, since there is ample reason to believe that the upward trend in salaries will continue, it is also apparent that the annuities received by public servants retiring now will prove to be considerably less than the annuities which will be received by public servants retiring a few years from now.

It should also be appreciated that annuities which are based on the old formula of the last ten years of service, rather than the current formula of the best six years of service, have not benefited to the same degree from rising salaries because averaging over a longer period necessitates inclusion of lower salaries in computing annuities.

Cost of Living Increases

As at July, 1953 the Consumer Price Index stood at 115.4 (although "stood" is a most inappropriate word because it implies stability and since World War II there has been little, if any, stability in the Consumer Price Index). In the thirteen-year period from July, 1953 to July, 1966, the index rose to 144.3 (1949=100.0). A further increase to 145.9 has recently been reported for the month of December, 1966. This represents an increase since 1953 of 26.4%. In other words, a 1953 dollar is today worth only 73.6 cents.

As a matter of coincidence, 1953 is also the year in which the Right Honourable Louis St. Laurent endorsed the following foreword to a civil service booklet describing the salient features of the Public Service Superannuation Act:

"Foreword

This booklet deals with the salient features of the new Public Service Superannuation Act. It has been prepared for you so that you may understand and become familiar with the main provisions of this Act.

After studying it, I think you will agree with me that it is a most comprehensive Act. I can assure you that it compares favourably with the best pension plans that have been developed in this or other countries.

The benefits which it provides are now a matter of right whereas in the past they were given as an act of grace. You would do well to study this booklet so that you may be fully aware of all the benefits which you are building up for your own future and for the protection of your family. These benefits grow with each year that you continue to be employed in the Public Service of Canada.

I believe this Act will do much to provide you with a feeling of security that is in keeping with the excellent work you are doing and the fine contribution you are making to the welfare of Canada.

Louis S. St. Laurent,
Prime Minister."

Because of the continuing steady decline in the real value of the dollar since 1953, many of those public servants who made such fine contributions to the welfare of Canada before 1953 and who retired before that year, are now either struggling to make ends meet on those benefits

which were intended to provide a feeling of security, or at best, are unable to enjoy the standard of living which it was reasonable for them to expect that those benefits would provide.

We now draw your attention to the following table concerning consumer price indices. Column 2 of the table shows increases in living costs to December, 1966, as measured by the consumer price index, for each year since 1949 when that year represented a base index of 100.0. As the annuity increases authorized by the Public Service Pension Adjustment Act of 1959 apply to certain annuitants who retired before 1953, increases in living costs since 1953, using that year as a base, are shown in column 3. As previously mentioned, in 1958 the Minister of Finance cited increased living costs as a reason for the annuity increases which were effective July 1, 1958. Between July 1, 1953 and July 1, 1958, living costs had risen 8.1%. Working back from the last mid-year point of July 1, 1966, we have determined, as shown in column 4 of the table, that an 8.1% increase in living costs also occurred between July 1st, 1963 and July 1st, 1966. It is reasonable to assume, therefore, that there is justification for increasing all annuities which commenced before 1963.

It is also apparent from this table that, not only having living costs increased sharply since 1958, but also, the rate of increase has accelerated in the last three years.

Consumer Price Indices

<u>Date</u> (1)	<u>1949=100.0</u> (2)	<u>1953=100.0</u> (3)	<u>1963=100.0</u> (4)
July 1949	100.0		
July 1950	102.7		
July 1951	114.6		
July 1952	116.1		
July 1953	115.4	100.0	
July 1954	116.2	100.7	
July 1955	116.0	100.5	
July 1956	118.5	102.7	
July 1957	121.9	105.6	
July 1958	124.7	108.1	
July 1959	125.9	109.1	
July 1960	127.5	110.5	
July 1961	129.0	111.8	
July 1962	131.0	113.5	
July 1963	133.5	115.6	100.0
July 1964	136.2	118.0	102.0
July 1965	139.5	120.9	104.5
July 1966	144.3	125.0	108.1
Sept. 1966	145.1	125.7	108.7
Oct. 1966	145.3	125.9	108.8
Nov. 1966	145.5	126.1	109.0
Dec. 1966	145.9	126.4	109.3

+
8.1%

+
8.1%

In his book, Public Sector Pensions, ⁽²⁾ Gerald Rhodes mentions that "The basic principle was stated by Mr. Amory when Chancellor of the Exchequer to be that 'pensions are directly related to length of service and pay on retirement and, once awarded, are not normally altered'." This statement was made in the British House of Commons on June 2, 1959. Mr. Rhodes continues: "Such a principle presupposes that in the normal state of affairs the value of money remains stable or at least declines only slowly, but certainly in the period since the war this assumption has not proved very satisfactory to employees in practice. Adjustments have been made

⁽²⁾ published for the Royal Institute of Public Administration by the University of Toronto Press, 1965.

from time to time to pensions being paid from central and local government schemes by means of a series of specific Pensions (Increase) Acts. These have tended to become more extensive in scope, perhaps under the realization that inflation, if not a normal state of affairs, is at least not quite so abnormal as had been assumed."

Mr. Rhodes also states: "There are other ways too in which the problem might be tackled, e.g. by linking pensions to a cost-of-living index or to an index of wage or salary rates. Either of these could be done in conjunction with a regular review of pensions."

The Effect on Annuities of Salary and Cost-of-Living Increases

We now invite your attention to Charts 1, 2, 3 and 4, the supporting data for which appear in Appendix A to this brief. These charts plot the movement of the consumer price index (C.P.I.) using the years 1949, 1953, 1958 and 1963, respectively, as base years. In other words, for each of the base years the index is taken as 100.0. The C.P.I. curve, therefore, shows the percentage increases in the C.P.I. from the base year to 1966. Also on these charts, and giving all indices a value of 100.0 for each of the base years, are shown the movement to date of the following indices:

FSI = Federal Salaries Index, which is related to average weekly salaries of salaried employees in the federal government as at December 31st of each year (except 1966, for which June is the last month for which data are available);

IRFS = Index of Real Federal Salaries, which is determined by dividing the Federal Salary Index by the concurrent Consumer Price Index, thus removing the influence of the latter to provide an index of the real value of federal salaries;

AI = Annuity Index, which, of course, remains at 100.0 in terms of the year in which an annuity commenced;

IRAV = Index of Real Annuity Value, which is determined by dividing the AI (i.e. 100.0) by the concurrent Consumer Price Index. Because the CPI continues to rise, the IRAV is always less than 100.0 and indicates the progressively eroding effect which the increasing living costs have on fixed annuities income.

It is obvious from these charts that, in order for an annuitant to hold his own (that is, retain the purchasing power which he hoped his annuity would continue to have), his annuity must be increased in direct relation to increases in the Consumer Price Index. It is also obvious that if an annuitant is to benefit from general economic improvement (that is, increased productivity), a higher factor than the cost of living index must be applied in order to close the gap between the fixed annuity index of 100.0 and the index of real federal salaries. (We will bring to your attention later in this presentation that such a practice has recently been adopted by the government of the Federal Republic of Germany).

The years 1949,¹⁹⁵³ 1958 and 1963 were selected for the following reasons:

1949 - this is the base year for the Consumer Price Index;

1953 - there have been no increases in annuities which commenced during and since 1953;

1958 - this is the year in which the government approved increases in certain (but not all) annuities which commenced prior to

1953, based in part on an increase of 8.1% in the Consumer Price Index from 1949 to 1953;

1963 - from 1963 to 1966 the Consumer Price Index had risen 8.1%.

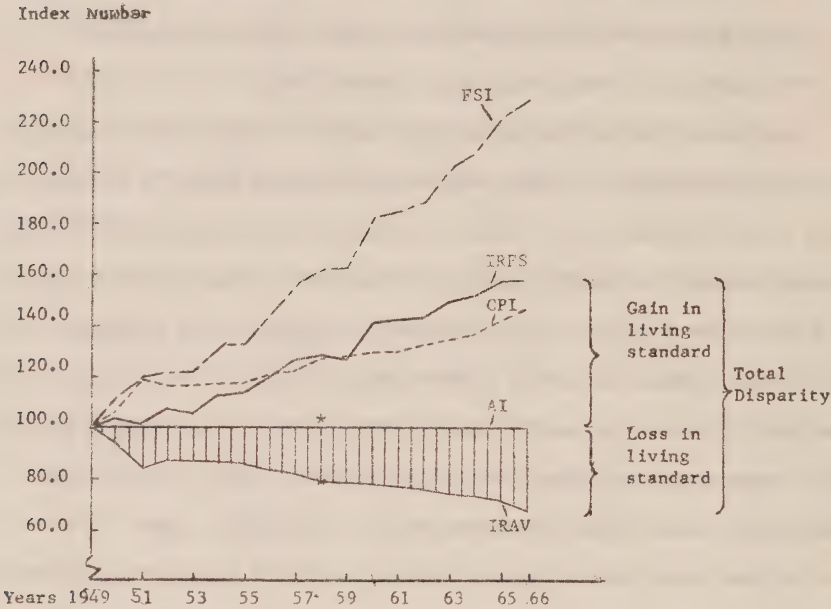
An increase of the same amount was cited as support for increases in annuities approved in 1958.

We would like to emphasize that each of these charts has been prepared in precisely the same proportions so that there is no distortion between charts either in the scale of indices or in the scale of years. With this in mind, we would like you to notice on Chart 4 the disparity which has occurred in the short period from 1963 to 1966 between the index of real federal salaries (IRFS) and the index of real annuity values (IRAV). It is apparent that the disparity is increasing very rapidly. There is no reason to believe that this will not continue indefinitely, unless appropriate corrective action is taken.

In our view, if an annuity is to provide a certain standard of living, it is unrealistic and does not make sense to guarantee that standard only at the moment of superannuation. And yet, this is what is occurring, as we have endeavoured to demonstrate graphically in the charts which follow.

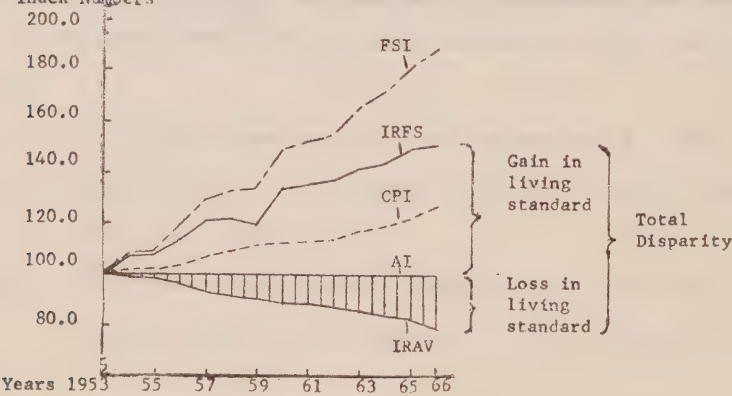
Consumer Price Indices (CPI), Federal (Government)
Salaries Indices (FSI), Indices of Real Federal
(Government) Salaries (IRFS), Annuity Index (AI), and
Indices of Real Annuity Values (IRAV)

CHART 1: 1949 to 1966



* From 1958 to 1966 AI and IRAV pertain only to annuities which were not increased effective July 1, 1958.

CHART 2: 1953 to 1966



Source: Dominion Bureau of Statistics
and Pay Research Bureau

Consumer Price Indices (CPI), Federal (Government) Salaries Indices (FSI), Indices of Real Federal (Government) Salaries (IRFS), Annuity Index (AI), and Indices of Real Annuity Values (IRAV)

CHART 3: 1958 to 1966

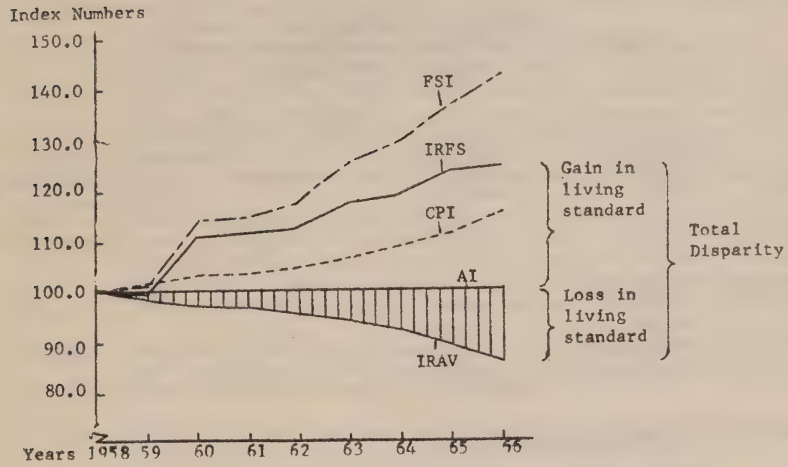
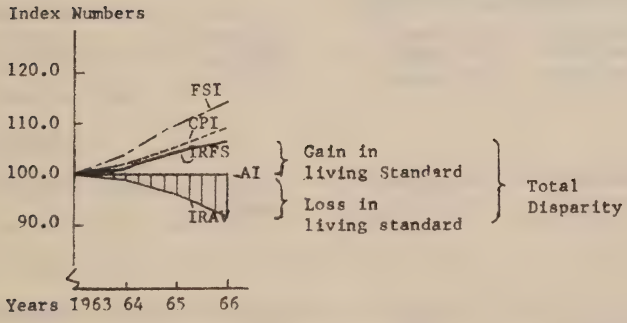


CHART 4: 1963 to 1966



Source: Dominion Bureau of Statistics and Pay Research Bureau

The effect which rising costs of living and increasing salaries have had on annuities placed in payment at different times, but in otherwise corresponding circumstances, is shown in the following comparisons.

ANNUITY COMPARISONS
ANNUITANTS RETIRED AT DIFFERENT DATES
BUT AT SAME GRADE LEVEL

Case Identi- fication (a)	Date of Retire- ment	Pension- able Service	Monthly Amount	Annuity Case A as % of Case B (c)
			(b) \$	%
<u>Comparison 1 (Clerk 3)</u>				
Case A	30 Sept/56	35 years	147.71	
Case B	30 Sept/66	35 years	251.85	58.6
Case C	30 Sept/66	20½ years	147.50	
<u>Comparison 2 (Cleaning Service Man)</u>				
Case A	30 Sept/56	35 years	135.45	63.5
Case B	30 Sept/66	35 years	213.41	
Case C	30 Sept/66	22 years	134.75	
<u>Comparison 3 (Administrative Officer 4)</u>				
Case A	30 Sept/56	35 years	318.02	67.7
Case B	30 Sept/66	35 years	469.04	
Case C	30 Sept/66	23 years	322.26	
<u>Comparison 4</u>				
Case A	18 Aug/45	31 years	250.00 (209.27)	61.6 (51.5)
Case B	30 Sept/66	31 years	406.07	
<u>Comparison 5</u>				
Case A	31 Jan/46	31 years	250.00 (210.57)	48.5 (40.8)
Case B	30 Sept/66	31 years	515.87	

Comparison 6

Case A	5 May/51	20 years	110.73	50.1
Case B	30 Sept/66	20 years	220.92	

- Notes :
- (a) Comparisons 1, 2 and 3 relate to typical civil service annuitants, and are based on the employees having been at their maxima salary rates for their last ten or best six years of service, as applicable. In these comparisons, note that : (i) because Case A retired 10 years earlier than Case B, but in circumstances which otherwise correspond, Case A's annuity is considerably less than Case B's ; and (ii) 35 years' service was required for Case A's annuity, whereas, because Case C retired 10 years later, a considerably shorter period of service was required to produce approximately the same annuity. Comparisons 4, 5, and 6 relate to armed forces annuitants. Case A relates to an annuitant who is living today and who was retired in the circumstances shown. Case B indicates the annuity payable if retirement occurred on September 30, 1966 in circumstances otherwise corresponding to Case A.
 - (b) The bracketed figures are the amounts of annuities before the increases effective July 1, 1958 authorized by the Public Service Pension Adjustment Act.
 - (c) The bracketed percentage figures are based on Case A annuities before the increases referred to in Note (b).

The above examples give a somewhat hollow ring to the assurances of "benefits....building up for your own future and for the protection of your family", and provision of "a feeling of security which is in keeping with the excellent work....and fine contribution which you are making to the welfare of Canada".

Old Age Security

Admittedly some measure of relief will be available when annuitants become eligible for old age security. At present, however, this will not occur until they reach age 68; and it will not be until 1970 that eligibility for old age security will be generally established at age 65. Regardless of what may be done for these annuitants in the intervening years, there is no sound reason why old age security, which itself is an earned, contributory entitlement, should be regarded as an offset against the deterioration which has occurred in another contri-

butory entitlement earned by retired public servants.

In addition, the fact should not be overlooked that Canadian men tend to be older than their wives -- 1963 statistics indicate an average age difference of three years (3). Also, the age at death of the average Canadian male is four years less than that of the average Canadian female (male - 60.5 years ; female - 64.1 years) (4). If a public servant dies at age 60, and assuming a three-year age difference, his 57-year-old widow, who at that age has a life expectancy of approximately 22 years (5), will have no entitlement to old age security for eight years and is left with an annuity income only one-half of what her deceased husband was receiving or would have received. And, as already demonstrated, the real value of the reduced annuity deteriorates rapidly because of increased living costs. If the widow is a few years younger, the situation is even worse, bearing in mind that the occupation of many widows for many years has been simply that of housewife. They may have lost any marketable labour skills they once had, and consequently are ill-equipped to earn supplementary income until becoming eligible for old age security at age 65.

Tax Escalation

Let us not forget that, in addition to the eroding effect of increasing living costs on annuities, in 1964 there was a 33-1/3% increase (i.e. from 3% to 4%) in the contributions made by Canadians for old age security. Also, aside from income and old age security taxes, there have been significant increases in taxes generally at all levels of government, for example, municipal property taxes, provincial

(3) Canada Year Book, 1966, p. 277

(4) Idem p. 260

(5) Idem p. 280

retail sales taxes, federal sales tax, etc., the sum total of which has placed an extremely heavy tax burden on persons whose major source of income is a fixed annuity and for whom such taxes are almost completely regressive.

The Public Service Alliance also feels that, in the case of a deceased contributor whose survivor is entitled to an annuity under the Public Service Superannuation Act, there should not be included in the aggregate net value of the estate for the purpose of determining estate tax liability, the commuted value of future annuity entitlements. We are aware of Section 30 (1) (ac) of the Act and Regulation 32 which permit payment from the Superannuation Account of that portion of the estate tax liability which is attributable to future annuity benefits, subject, of course, to future annuity payments being reduced until the Superannuation Account has recouped the amount paid for estate tax. Nevertheless, since the annuity payments themselves are subject to income tax, we feel that there should be no question of estate tax liability on the commuted value of future annuity payments.

Precedents Established Elsewhere

The cases outlined below indicate a trend, both in the public and private sectors, towards acceptance by employers of a moral obligation to ensure that the measure of security earned through years of loyal and devoted service is not eroded by what some refer to as creeping inflation, but which, indeed, in the past few years, has accelerated from the "creeping" to the "running" stage. The Public Service Alliance earnestly hopes that this committee will see fit to recommend an appropriate remedy now, rather than wait until inflation breaks into a "gallop" before taking steps to alleviate the situation in which retired public servants now find themselves.

(a) Public Sector

On November 19, 1965, the Civil Service Federation provided the government with information concerning the practice of the United Kingdom Government of escalating pensions already in payment. Briefly, the situation in the United Kingdom is that pensions placed in payment on or before April 1st, 1957, were increased by 16%. For pensions placed in payment during each subsequent year, the percentage amount of increase is 2% less than for the preceding year (e.g. 1958 - 14%, 1959 - 12%, etc.), so that for pensions placed in payment between April 2nd, 1963 and April 1st, 1964, the increase is 2% only.

In the United States, legislation was enacted in 1963 which provides that, effective January 1964, whenever the cost of living goes up by at least 3% over the Consumer Price Index for the month used as a basis for the most recent cost-of-living annuity increase, and stays up by at least 3% for three consecutive months, an increase in annuities equal to the percentage rise in the Consumer Price Index will be granted automatically. We emphasize and commend the automatic feature of this arrangement.

It is also interesting to note that under the Superannuation Act of Australia, the Superannuation Fund is administered by a Superannuation Board which is a corporate body having statutory authority to invest the Superannuation Fund within prescribed limits. It is also of interest to note that the 43rd Annual Report of the Australian Superannuation Board reveals that for the fiscal year 1964-65, "The effective rate of interest earned by the Fund during the year was £5 10s 7d per centum (i.e. slightly more than 5.5%)* compared with £5 9s 9d per centum (i.e. slightly less than 5.5%)* in the previous year."

Additional information concerning the superannuation policy of the Government of the Commonwealth of Australia appears in Appendix B to this brief. Suffice it to say here that it is apparent that the discretion

* Bracketed phrasing inserted by P S A C.

permitted the Australian Superannuation Board to invest funds, not only relieves the tax payer of the burden of payments for actuarial liability adjustment, but also permits enhancement of benefits already in payment. In other words, such benefits are not permanently "crystallized" at the time of retirement, as is the case in Canada.

The Public Service Alliance believes that if the Public Service Superannuation Fund possessed the ability to invest funds, the fund could earn a more realistic rate of return than the 4% now paid by the government. We will come back to this point later.

This Committee will be interested to know that the Government of the Federal Republic of Germany has recently taken steps to improve retirement pensions for public servants. This information was gleaned from the November/December, 1966 newsletter of the Public Services International, London.

"GERMANY - Improved Retirement Pensions for Public Servants."

In October of this year the Federal German Ministry of Finance approved the new Constitution of the Federal and Provincial Retirement Pension Institute. This means that more than 1,300,000 manual and non-manual employees of the Federal and Provincial Governments and of municipalities will enjoy much better conditions as regards retirement pensions. This settlement was the result of four years of negotiation and it represents one of the greatest successes of the German Union, Gewerkschaft, OeTV (6), in the social field. It provides, after 35 years' employment, for a pension amounting to 75%

- (6) Gewerkschaft OeTV = Oeffentlicher Dienst, Transport und Verkehr (i.e. Public Service, Transport and Trade & Commerce Union)

of the last earnings (automatically adjusted in proportion to the current salary of the grade concerned)*. The Union emphasises that such an innovation in retirement provisions is the topical answer to the problem of old people in a modern industrial society."

* Underlining is by P S A C

(b) Private Sector

On November 1st, 1965, the Civil Service Federation forwarded to the Prime Minister a brief on this subject. Among other things the brief outlined the action taken by General Motors of Canada to alleviate the situation resulting from loss of purchasing power of pensions. Details of the General Motors action are contained in Appendix C to this brief. Suffice it to say at this point that the increases range in the order of 50 to 60 per cent, and that since June 1950 General Motors has increased pensions from \$1.50 per month for each year of service to a possible maximum of \$4.25 per month for each year of service. This difference of \$2.75 per month represents an increase of approximately 183%.

The principle now established has also been honoured in the case of a more recently negotiated agreement between the United Packinghouse, Food and Allied Workers and Canada Packers Limited. Although final details of this settlement are not yet known, the company has accepted the principle of increasing pensions already in payment and has committed a definite sum of money for this purpose. One formula suggested would give a supplement which is 2% greater for each year prior to 1966, but, as far as can be ascertained at this time, details have not yet been negotiated.

Some information has also come to hand concerning two additional cases in which industrial companies have accepted this recently established principle. Dehavilland Aircraft of Canada Limited has signed an agree-

ment with the United Auto Workers extending to pensions already in payment the increased pension benefit now applicable to pensions currently placed in payment. Also, the agreement between the United Steelworkers of America and the Steel Company of Canada provides for an across-the-board increase of \$20.00 per month in pensions in payment.

The Public Service Superannuation Account

We would like now to make some observations concerning the Public Service Superannuation Account. We sometimes wonder whether the government is not overly concerned about the maintenance of the Superannuation Account on a full actuarial basis.

As at March 31st, 1966 (the last date for which official figures are available), the balance in the account was well over 2 billions of dollars. An examination of the balance sheet for each of the last four fiscal years reveals that the interest alone has exceeded total disbursements. In fact, for the years ending March 31st, 1963, and 1964, the employees' contributions alone exceeded the total disbursements, and for 1965 and 1966 employees' contributions were only slightly less than total disbursements.

There are precedents for paying government pensions on a pay-as-you-go basis. While the Public Service Alliance is not necessarily recommending such a course, it does submit that the senior government of the nation, as an employer, has no need for funding the superannuation account on a full actuarial basis, especially when we are experiencing an extended period in which large numbers of present-day annuitants are in dire need of additional income if they are to maintain some semblance of the first-class citizenship which they have been led to believe they justly deserve. In any event, if funding on a full actuarial basis is necessary, the Public Service Alliance submits that the rate of interest

paid by the Government for its use of superannuation funds should be a realistic rate in line with the experience of private superannuation funds, and certainly not less than the rate payable to subscribers to Canada Savings Bonds. The extra income to the fund from such an increase would be more than sufficient to finance increases in annuities which would at least compensate for increases in the cost of living. It might even permit annuities to be increased at a rate comparable to increases in real salaries paid to public servants. For example, the 4% interest credited by the government for the fiscal year ending March 31st, 1966 amounted to slightly less than 90 millions of dollars (\$89,499,085). Incidentally, this is some 20 millions of dollars more than the total disbursements (\$69,906,914) for that year. If a more realistic interest rate of 5% had been used, the fund would have earned an additional 22½ millions of dollars. This additional interest represents 38.8% of the annuity benefits paid during the 1965-66 fiscal year (\$57,674,369). While the Public Service Alliance is not recommending across-the-board increases of flat amounts, this additional interest income represents \$48.64 a month for each of the 30,923 contributors on pension, and \$24.32 a month for each of the 15,252 widows on pension, as at March 31st, 1966.

Summary, Recommendations, and Conclusion

The Public Service Alliance of Canada feels that the Government, as an employer, has a definite, moral obligation, not only to further alleviate the situation in respect of annuitants who retired prior to 1953, but also to make provision for the periodic escalation of annuities placed in payment before, during, and since 1953. Having regard to the dignity of retired public servants and the fact that their annuities represent an entitlement which should permit them to maintain a standard

of living commensurate with such benefit at the time of retirement, there should be no question of a means test and no appearance of pension increases being social welfare. The Public Service Alliance can not accept the principle that Old Age Security should be applied as an offset against the deterioration which, as a result of chronic inflation, has occurred and will continue to occur, in the real value of annuities. Not only is this not the purpose of Old Age Security, which, like the public servant's annuity, is an earned, contributory entitlement ; but also, in many cases, the eroding effects of inflation reduce the real value of annuities long before annuitants become eligible for Old Age Security.

Accordingly, the Public Service Alliance recommends that :

1. all annuities which are based on average annual salaries during the last ten years of service be recomputed on the basis of average annual salaries during the best continuous six years of service;
2. in all cases where, since the date on which an annuity commenced, living costs have increased by at least three per cent (as reflected by the Consumer Price Index for Canada), and such increase of at least three per cent has persisted for at least three months, the annuity be increased by the percentage increase in the Consumer Price Index for Canada since the date on which the annuity commenced;
3. in future, annuities be increased automatically by the percentage increase in the Consumer Price Index when living costs (as reflected by the Consumer Price Index for Canada) increase by at least three per cent since the effective date of the last annuity increase, and

such increase of at least three per cent in living costs persists for three consecutive months;

4. this committee consider the feasibility of additional increases in annuities commensurate with productivity increases as reflected in the index of federal government salaries;
5. that the annual rate at which interest is paid by the government on the balance in the Public Service Superannuation Account be increased to not less than the yield rate for Canada Savings Bonds, and in any event that such annual rate be not less than 5% and that the resulting additional income to the Superannuation Account be used to increase annuities as recommended in this brief;
6. the Public Service Superannuation Act be amended to include a provision (similar to that contained in the War Veterans' Allowance Act) which would permit continuation of payment of the full annuity entitlement for one year after the death of an annuitant; such payment to be made to or in respect of the survivors of the annuitant to assist in their rehabilitation, relocation and other re-adjustments following the annuitant's death; and
7. the Estate Tax Act (SC 1958 c.29) be amended to exclude from the aggregate net value of an estate the commuted value of survivor benefits payable on an annuity basis and related to a pension plan.

Feb. 28, 1967

PUBLIC SERVICE OF CANADA

1561

The Public Service Alliance sincerely believes that there is a serious and immediate need to take action to improve the position of all former public servants now receiving annuities. The Alliance, therefore, earnestly asks this committee to use its influence to persuade the Government to introduce legislation which will implement the above recommendations.

Consumer Price Indices (CPI), Federal (Government) Salaries Indices (FSI), Indices of Real Federal (Government) Salaries (IRFS), Annuity Index (AI), and Indices of Real Annuity Values (IRAV), by years 1949 to 1966.

APPENDIX A

Year	1949 = 100						1953 = 100						1958 = 100						1963 = 100					
	CPI	FSI	IRFS (a)	AI	IRAV (b)		CPI	FSI	IRFS (a)	AI	IRAV (b)		CPI	FSI	IRFS (a)	AI	IRAV (b)		CPI	FSI	IRFS (a)	AI	IRAV (b)	
1949	100.0	100.0	100.0	100.0	100.0																			
1950						100.0																		
1951	118.1	119.3	100.9	100.0	84.7																			
1952	115.8	120.3	106.8	100.0	86.4																			
1953	115.8	121.6	105.1	100.0	86.4	100.0	100.0	100.0	100.0	100.0	100.0													
1954	116.6	131.8	113.2	100.0	85.8	100.7	108.4	107.7	100.0	99.3														
1955	116.9	133.3	114.1	100.0	85.5	100.9	109.6	108.6	100.0	99.1														
1956	120.4	144.4	120.0	100.0	83.1	104.0	118.8	114.2	100.0	96.2														
1957	123.1	156.4	126.7	100.0	81.2	106.3	128.6	120.6	100.0	94.1														
1958	126.2	160.5	127.2	100.0	79.3	109.0	132.0	121.0	100.0	91.7	100.0	100.0	100.0	100.0	100.0	100.0	100.0							
1959	127.9	162.5	125.8	100.0	78.2	110.4	133.6	119.7	100.0	90.6	101.3	101.2	98.9	100.0	98.7									
1960	129.6	181.5	140.5	100.0	77.2	111.9	149.3	133.7	100.0	89.4	102.7	113.1	110.1	100.0	97.4									
1961	129.8	184.1	141.9	100.0	77.0	112.1	151.4	135.0	100.0	89.2	102.8	114.7	111.6	100.0	97.3									
1962	131.9	188.4	142.7	100.0	75.8	113.9	154.9	135.8	100.0	87.8	104.5	117.4	112.3	100.0	95.7									
1963	134.2	200.6	149.5	100.0	74.5	115.9	165.0	142.2	100.0	86.3	106.3	125.0	117.6	100.0	94.1	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
1964	136.8	207.0	151.3	100.0	73.1	118.1	170.2	143.9	100.0	84.7	108.3	129.0	119.1	100.0	92.3	101.9	103.2	101.3	100.0	98.1				
1965	140.8	220.5	156.6	100.0	71.0	121.6	181.3	149.0	100.0	82.2	111.6	137.3	123.0	100.0	89.6	105.0	109.9	104.7	100.0	95.3				
1966	145.9	(cl)	---	100.0	68.5	126.0	(cl)	---	100.0	79.4	115.6	(cl)	---	100.0	86.5	108.7	(cl)	---	100.0	92.0				
June 1966	143.8	228.1	158.6	---	---	124.2	187.5	150.9	---	---	113.9	142.0	124.7	---	---	107.1	113.6	106.1	---	---				

Sources: Dominion Bureau of Statistics, and Pay Research Bureau.

Notes:

- (a) IRFS determined by dividing FSI by CPI.
- (b) IRAV determined by dividing AI by CPI.
- (c) December 1966 data are not yet available.

Additional Information Concerning the
Australian Commonwealth Superannuation Fund

The 43rd Annual Report of the Australian Superannuation Board reports that, as a result of the 8th quinquennial investigation of the Fund, "The Actuary's report, together with sustained growth of the Fund, led to a review by the Government of policy concerning rates of contribution and bases for distribution of surplus. As a consequence, a Ministerial Statement was presented to the Parliament on 25th March, 1965, which set out the government's intention to provide for:

- . New rates of contribution from 1st July, 1962;
- . Repayment to eligible contributors of excess contributions paid on and after 1st July, 1962 together with interest;
- . Recalculation of the surplus previously reported at 30th June, 1962 for distribution together with interest from 1st July, 1962 to eligible contributors and pensioners".

The Commonwealth of Australia Superannuation Act 1965 (Part III) prescribes that; "the actuary shall:

- (a) calculate the amount (in this Part referred to as "the surplus") by what, in his opinion, the Superannuate Fund was, at the end of the quinquennium, more than sufficient to provide for the benefits that were a charge upon the Fund as at that time;
- (b) calculate the amount of the surplus equal to the amounts that by virtue of this Act, are, or may be, required to be paid from the Provident Account in respect of the quinquennium;

- (c) calculate the amount of the remainder of the surplus that is available for distribution to eligible contributors and the amount of the remainder of the surplus that is available for distribution to eligible pensioners;
- (d) notify the Treasurer in writing of the amounts calculated."

Section 62 of the Australian Act prescribes that; "The amount of the surplus available for distribution to eligible pensioners shall be distributed among those pensioners as the Treasurer, after receiving advice from the actuary, determines.". Section 62 then refers to actuarial principles and practice and the relevant matters which the actuary shall take into account, including "the interest earned by the assets of the Fund during the quinquennium", in furnishing advice as to the amount which can be distributed.

While there is no guarantee in the Commonwealth of Australia Superannuation Act that the quinquennial investigation will invariably result in pensioners receiving supplementary financial benefits every five years, it is apparent from the 43rd Annual Report that interest earned through investment is considerably more favourable than the four percent rate used in Canada.

(Note: Underlining in the above quotations is by the Public Service Alliance).

ADDITIONAL INFORMATION CONCERNING

STEPS TAKEN BY

GENERAL MOTORS OF CANADA LIMITED

TO INCREASE PENSIONS OF

RETIRED EMPLOYEES

General Motors of Canada Ltd. has taken definite steps to compensate retired employees for losses in the purchasing power of their pensions through increased living costs. This corporation amended its pension plan five times in the past fifteen years: in 1953, 1955, 1959, 1962 and 1964. The 1964 revisions provided for increasingly higher monthly pension adjustments. In brief the benefits payable are as follows:

- (i) Those retired before November 1, 1958: the monthly pension between the period November 1, 1958 and March 1, 1965 shall be \$2.35 per month multiplied by each year of credited service, and on or after March 1, 1965, the monthly pension shall be \$3.80 per month multiplied by each year of credited service.
- (ii) Those retired between November 1, 1958 and November 1, 1961: the monthly pensions up to March 1, 1965 shall be the addition of the following:
 - 1. \$2.40 per month multiplied by each year of credited service accrued prior to January 1, 1958;
 - 2. \$2.42 per month multiplied by the credited service accrued during the year 1958 and
 - 3. \$2.50 per month multiplied by each year of credited service accrued after December 31, 1958.

The monthly pension after March 1, 1965 shall be the addition of the following:

1. \$3.85 per month multiplied by each year of credited service accrued prior to January 1, 1958;
2. \$3.87 per month multiplied by the credited service accrued during the year 1958 and
3. \$3.95 per month multiplied by each year of credited service accrued after December 31, 1958.

Thus, employees in these two groups received on March 1, 1965, a pension adjustment of \$1.45 per month for each year of credited service or approximately 60%.

- (iii) Those retired on or after November 1, 1961: the monthly pension for the period March 1, 1962 up to March 1, 1965 shall be \$2.80 per month multiplied by each year of credited service; the monthly pension on or after March 1, 1965 shall be \$4.25 per month multiplied by each year of credited service.

Thus, employees in this group received a pension adjustment of \$1.45 or approximately 52%.

It should be noted that pensions in General Motors have increased since June 1950 from \$1.50 per month for each year of service to a possible maximum of \$4.25 per month for each year of service, an increase of \$2.75 per month for each year of service, or approximately 183%.

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The Clerk of the House.

First Session—Twenty-seventh Parliament
1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 32

TUESDAY, MARCH 14, 1967

Respecting
PENSIONS

WITNESSES:

Chief Superintendent P. R. Usborne, Departmental Secretary, *Royal Canadian Mounted Police*; Mr. D. N. Cassidy, Dominion President, *The Royal Canadian Mounted Police Veterans' Association*; Dr. J. C. Arnell, Assistant Deputy Minister/Finance; Lt. Col. L. L. England, Office of the Judge Advocate General, *Department of National Defence*; Mr. D. H. Baker, Secretary-Treasurer, *Association of Canadian Forces Annuitants*; Mr. William C. Cooper, pensioner; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, *Department of Finance*.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard
and

Representing the Senate
Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*),
Mr. MacKenzie,
Mrs. Quart—12.

Representing the House of Commons

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Éthier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicou-
timi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, March 14, 1967.

(53)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.15 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Emard, Knowles, Orange, Richard, Walker (7).

In attendance: Chief Superintendent P. R. Osborne, Departmental Secretary, Royal Canadian Mounted Police; Mr. D. N. Cassidy, Dominion President, The Royal Canadian Mounted Police Veterans' Association; Dr. J. C. Arnell, Assistant Deputy Minister/Finance; Lt. Col. L. L. England, Office of the Judge Advocate General, Department of National Defence; Mr. D. H. Baker, Secretary-Treasurer, Association of Canadian Forces Annuitants; Mr. William C. Cooper, pensioner; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Committee heard and questioned representatives of the Royal Canadian Mounted Police, the RCMP Veterans' Association, the Department of National Defence, the Association of Canadian Forces Annuitants and a private individual on the question of pensions paid to retired members of the RCMP and Armed Forces.

The Committee agreed to print the following as appendices to the proceedings:

R.C.M. Police Pensions—(*See Appendix AA*)

Brief re Increase in Pensions for RCMP Pensioners and Widows
—(*See Appendix BB*)

Statistical Tables for the Canadian Forces Superannuation Act and Defence Services Pension Continuation Act—(*See Appendix CC*)

At 11.50 a.m., the Committee continued *in camera* to discuss procedure for upcoming meetings.

At 12.07 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, March 14, 1967.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning the Committee will hear the presentation of briefs from the Royal Canadian Mounted Police and the National Defence employees.

Our first witness is Chief Superintendent Usborne of the Royal Canadian Mounted Police.

Mr. P. R. USBORNE (*Chief Superintendent Royal Canadian Mounted Police*): Mr. Chairman, Senators, and members of the House of Commons, I have just prepared a brief on the different pension provisions applicable to retired members of the mounted police.

In brief, there are two pension acts. The first one came into force in 1889, and is still in effect. It applies to those members of the force who were engaged prior to 1949, and who did not elect to come under our new pension act which is now applicable to most of the members of the force.

The RCMP Superannuation Act, which came into force in 1949, requires members to contribute 6 per cent of their pay for pension purposes; it is 5 per cent in the case of females.

These pensions are based on the six best consecutive years of service and are calculated at the rate of 2 per cent for each year of service, not exceeding 35 years. Contributors may elect to count service in the civil service, the armed forces, in provincial police forces and in certain other government departments and provincial departments.

A contributor who is compulsorily retired having reached the age limit is entitled to pension provided he had 10 years' service in the force. If he becomes disabled he is also entitled to a pension after ten years, but in this case it is just pensionable service, not service in the force.

Voluntary retirement, other than by a commissioned officer, may take place after 20 years on a reduced basis, and upon completing 25 years, without any reduction in the pension.

An officer may voluntarily retire with a deferred pension or an annual allowance which is payable at age 60 if he has completed 20 years' service in the force. If he has completed 35 years he can retire voluntarily with a full pension.

We have provision for members who may be compulsorily retired for misconduct, or to promote economy or efficiency, and these members may be granted a pension at the discretion of the Treasury Board.

Under the superannuation act, widows are entitled to one-half of the pension received by the member, and allowances are paid to children on the

same basis as under the Public Service Superannuation act; one-fifth of the widow's pension is payable for each child up to a certain maximum.

In addition to the service pension under the RCMP Superannuation Act, a member is entitled to a disability pension, and this pension is payable notwithstanding the length of service. It is possible that a member may be injured in training after only a week. He would get a disability pension if he was unfit for service and if it was caused as a result of his service in the force. This pension is in addition to any, what we call, service pension that may be granted.

Prior to 1949, members were subject to the pension continuation act. In 1949, the new act was proclaimed and members had an election to come under the superannuation act and contribute for their pension. This pension continuation act, rather surprisingly, is a free pension and no contributions are required from the members of the force; in addition, no part of the pension under Part III of this Act is payable to a widow of a non-commissioned officer or constable.

The officer under the RCMP Continuation Act contribute 5 per cent of their pay and their pensions are calculated on one-fiftieth of the pay of their rank at the date of their retirement for each completed year of service, up to a maximum of 35 years, or 70 per cent.

An officer is compulsorily retired upon reaching the age limit or upon completing 35 years' service, whichever comes first. He may, however, be compulsorily retired prior to reaching the age limit or completion of maximum service. In these cases, he normally gets a pension if he is retired for reasons other than misconduct or inefficiency.

An officer can voluntarily retire after 35 years, and is entitled to the full pension. He may voluntarily retire after 25 years, but in this case his pension is reduced by 20 per cent. The same would apply if he voluntarily retired at 30 years, under this act. It would still be 20 per cent reduction; or at 34 years, it would still be 20 per cent.

The widow of an officer is entitled to one-half his pension, and we have a small allowance for each child. It varies from \$60 a year to \$80 a year in the case of children, under this act. I think one of the reasons for the small pension for the children is that the pension to the officer is quite good.

Non-commissioned officers and constables are not required to contribute for their pension, as I stated, and, in addition, no part of this pension is payable to the widow. It dies with the man. A member in this category may voluntarily retire if he has completed 20 years' service; and in this case he gets 20/50ths of his annual pay over the last year. Then from 21 to 24 years they get an additional 2/50ths for each year of service. So that at 25 years the pension is 60 per cent of the pay received over the last year of service. Upon completion of 25 years, they are entitled to 30/50ths plus 1/50th for each additional year, the pension not to exceed 2/3 of the pay and allowances during the last year of service.

Should a non-commissioned officer or constable reach the age limit, or be invalidated, he is entitled to a pension if he has completed 10 years or more of service.

Under this Pension Continuation Act there is Part IV, namely, the Widows and Orphans Pension Fund. This part came into force in 1934. Prior to that we

had no pensions to widows and children unless the member was killed on duty; there was nothing. In 1934 this part came into effect, and provides for a pension to a widow and an annuity to the children of those members who joined between 1934 and 1949 when the new act came in.

In addition, those non-commissioned officers and constables who joined prior to 1934 could elect to obtain a pension for their widow and children. A deduction of 5 per cent is made from the pay of the member concerned, and, in addition, he may authorize a supplementary deduction from his pay of up to 1 per cent; and this provides for an increase in this pension. No contribution is made by the government for these widows' pensions, except that the government does pay interest on the money in this Widows and Orphans Pension Fund.

Under the RCM Police Pension Continuation Act, section 64 provides for a pension to the widow of an officer who loses his life in the performance of duty. This pension is equal to one-half of the pay received by the officer at the time of his death. At the present time I believe there are only two former commissioned officers whose widows are receiving pensions of this type.

Section 78 applies to non-commissioned officers and constables who joined prior to 1949, and provides for a pension to the widow and a compassionate allowance to each of the children of a non-commissioned officer or constable who loses his life in the performance of duty. This pension is equal to one-half of the pay and allowances authorized for pension purposes, namely, the pay over the last year of service.

The Widows and Orphans Pension Fund for non-commissioned officers and constables killed on duty is in addition to the pension that the member has purchased under the Widows and Orphans Pension Fund. It is not in addition to the officers' widows' pension.

Appendix A shows the table of compulsory retirement. The age limit for the Commissioner is 62 years; for the Deputy Commissioner, 61 years; and so on down.

We also compulsorily retire officers upon completing 35 years' service, whether or not they have reached the age limit. We do have officers who perhaps joined at age 17. They are compulsorily retired at 52, unless they are granted an extension. Sergeants and other ranks are likewise compulsorily retired upon serving 35 years, or at the age limit, whichever comes first.

Appendix B is RCMP Pension Continuation Act, Part II. That is the commissioned officers' pensions for which they contribute 5 per cent. This, as I mentioned earlier, applies to persons who joined the force prior to 1949.

There are only 165 officers who are presently contributing; and in Part III there are only 561 non-commissioned officers and constables still subject to this old part. All those non-commissioned officers and constables have the Widows and Orphans Pension Fund for which they contribute and the government does not.

At the present time, under the old act there are 100 officers and 1782 non-commissioned officers and constables receiving pensions. In addition, there are 66 widows of commissioned officers and 79 widows of non-commissioned officers and constables. That 79 is not a true figure of the number of widows

remaining. It is only those widows who are receiving pensions under this part IV. There are many other widows, a large number of whom receive no pension whatsoever under this old act, because prior to 1934 there was no pension for a widow. This 79 would cover those members who joined between 1934 and 1949.

There are 12 children of officers receiving pensions, and 58 children of other ranks. Receiving pensions because their husbands were killed on duty are 2 widows of officers and 11 widows of non-commissioned officers and constables.

The government, several years ago, in 1960, provided that for persons killed on duty their widows would be entitled to the same pension as is authorized under the Pension Act to widows of members of the armed forces who are killed on duty. At the present time the pension under the Pension Act is a minimum of \$2100 to all widows of members of the mounted police who are killed on duty; they are now receiving a minimum of \$2100. Some are receiving a larger amount; but if they were getting less than that the government increased it to the rates applicable under the Pension Act.

The RCMP Superannuation Act came into force in 1949. At the present time we have 7559 contributors. Twelve officers have retired since that date; two hundred and twenty-eight non-commissioned officers and constables have retired since that date; and there are 58 widows receiving pensions; and 24 children.

The question may be asked how pensions would be payable to 12 officers and 228 other members when the act only came into force in 1949. In 1950 the British Columbia provincial police and the Newfoundland constabulary were absorbed into the mounted police and all members who came over became subject to our superannuation act. Of the number now on pension the majority would be former members of those forces. The government of British Columbia and the government of Newfoundland contributed the amount required to bring all their past service up to date for pension purposes.

Of those killed on duty, there are 9 widows receiving pensions and this pension, which is also the amount under the Pension Act of \$2100, is in addition to any pension the widow might receive under the Superannuation Act, provided her husband had ten years of service. She then gets two pensions—one killed on duty, and the other one-half of his service pension.

Appendix C shows the number of former members of the force receiving pensions. As you will see, under the old act there are 132 officers and N.C.O.'s and 50 widows receiving pensions under \$600.

Under the superannuation act, which, as I mentioned, came into force in 1949, there are no pensioners receiving amounts under \$600. Therefore, under the Pension Continuation Act we have 882 pensioners, and the pension for those 882 would normally die with them because no part of it is payable to the widow.

There are 158 widows receiving pensions under the old act. They would include officers' widows and also the 79 widows who are receiving pensions because their husbands contributed to the Widows and Orphans Pension Fund. That 158 would not include what we call the free pension for non-commissioned officers and constables.

We have a total pension list of 2338 persons receiving pensions under the mounted police act.

I am sorry, Mr. Chairman, that we do not have figures showing the length of service of those individuals receiving a pension of under \$600. They must have had at least ten years' or more, but some could have had ten and perhaps some could have had 20.

As a matter of interest, we are paying one pension for a man who retired from the force in 1923. That is the earliest. Those prior to 1923, I must presume, have all died off. So that 1923 is the earliest pension we are presently paying. That amounts to \$255.50. It was increased under the increased pension regulations in 1950, I think it was. That person who retired in 1923 is now getting \$337.22 a year with ten years' service.

Mr. KNOWLES: How old is he?

Mr. USBORNE: I am sorry, sir, I just got that this morning, and I do not know, but he would have to be 30 when he went out, so I presume he is still in his early seventies

Mr. KNOWLES: He is still a young man.

Mr. USBORNE: But most of our pensioners would be from 1932 on. The pensions in 1932 were quite small because our pay was \$2.25 a day plus an allowance for pension purposes. The most a man could receive would be 2/3 of about \$1200 a year in those days, in the thirties.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. KNOWLES: Mr. Chairman, I wonder if this document should not be appended to the record of today's proceedings?

The JOINT CHAIRMAN (*Mr. Richard*): Yes. Does the Committee agree?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, Mr. Usborne.

The Royal Canadian Mounted Police Veterans' Association is represented by Mr. D. N. Cassidy, the Dominion President. Mr. Cassidy.

Mr. D. N. CASSIDY (*Dominion President, RCMP Veterans' Association*): Mr. Chairman, Senators, and members of the House of Commons, on behalf of the members of the RCMP Veterans' Association, and particularly those who are pensioners from the force, I would like to thank you for inviting us to submit a brief and for the opportunity to express to you some of our thoughts on the matter of increasing RCMP service pensions.

First, with your permission, Mr. Chairman, I would like to introduce two of my colleagues, Mr. D. J. Heath, the president of the Ottawa division, and Mr. J. H. Aldred, the chairman of the Dominion Headquarters Pensions Committee.

I have had the privilege of being Dominion President since 1965, the year that Dominion Headquarters was transferred from Calgary, Alberta to Ottawa, after having been there for some 40 years. We felt that it would be a little closer to the horse's mouth down here.

With your permission, and before I make our presentation on pensions, I would like to pay tribute to our first Honourary Patron, His Excellency the late General Georges P. Vanier. We members of the RCMP Veterans' Association were greatly saddened by his sudden and untimely passing, as were all Canadians.

Perhaps I should also say a word about our Association, which is not too well known in eastern Canada.

The first organized meetings took place shortly after the South African war when members of the force returned from service in Africa.

In 1912 several divisions were formed and operated independently. In 1924 the Association formed a Dominion Headquarters, and it is federally incorporated. We have some 1800 members located in 16 divisions throughout Canada. Some of our members reside in many countries throughout the world. All of our members have an honourable discharge from the force, and not all of them are pensioners.

Among our objects and aims are to work for the best interests of Canada, to assist the parent body, the RCMP, and to help such ex-members of the force, their widows and dependents as are in need. We do all of these things.

In the past several years we have submitted briefs to the government of Canada requesting that service pensions be increased, and the latest of these were submitted on January 10, 1966, and on February 4, 1967, in the form of a memorandum.

Because of the lateness of the invitation to appear before you—and I may say that, we appreciate and welcome the invitation—we did not have an opportunity to prepare a fresh brief. I hope that you will accept, Mr. Chairman, the folder which has been distributed, containing the briefs submitted on January 1966 and February 1967.

In summary, the recommendations contained in these two briefs are as follows:

(a) that the pensions of retired members of the Royal Canadian Mounted Police and their widows, civil service, Armed Forces and the Public Service be increased;

(b) that R.C.M. Police, civil service, Armed Forces and public service pensions be administered in a more enlightened manner so that the value of a pension in terms of its purchasing power will be guaranteed for the life of the pension;

(c) that the \$300.00 marriage accommodation allowance and all other allowances which were paid to the R.C.M. Police and which were subject to Income Tax, be incorporated into the pension of those so qualifying;

(d) that whatever method is used to adjust pensions upwards, the provision of the Section 4 of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, should not apply;

(e) that the R.C.M. Police Pension Continuation Act be amended to provide for pension payment to the end of the month in which the pensioner dies, same as the R.C.M. Police Superannuation Act, the Public Service Superannuation Act, the Canadian Forces Superannuation, the Pension's Act, and the Family Allowance Act.

I would now like, with your permission, Mr. Chairman, simply to read a few extracts from the brief of February 4. We all realize that

there has been a general movement upwards in salaries since the last adjustment was made to pensions of retired members of the RCMP,

I am reading from page 3 of the letter dated February 4, 1967.

There has been a general movement upwards in salaries since the last adjustment was made to pensions of retired members of the RCMP, civil service, Armed Forces and Public Service, or their dependents in 1969—

Mr. WALKER: Excuse me, Mr. Chairman; obviously, I am late. Could you identify the page? What letter are we on?

Mr. CASSIDY: I am sorry. There are two briefs one dated January 10, 1966 and if you turn on to about page 7 there is a second letter dated February 4, 1967. I am now reading a few extracts from page 3 of that letter at the top of the page,

—and there has been an undeniable increase in the cost of living. As living expenses continue to rise the plight of the pensioner become most difficult.

The following examples of several of the pensioners of the RCMP demonstrate the hardship—

that some of these people are facing; and this is under the RCMP Pension Continuation Act. Of the ranks held, four were constables and one was an acting corporal, all with roughly 20 years' service, who retired between 1937 and 1939 with pensions of about \$550 a year. With the pension increase granted in 1959, these pensions were raised to in the neighbourhood of \$724.06.

The Canada Pension Plan will help RCMP pensioners in the years to come, and it will help all Canadians, but it will have little effect, if any, on those individuals who because of their age do not have the opportunity to contribute to it or will it help others, to any extent, who because of their age will not be permitted to pay into it for very long.

An example of those who fall withing the 'gap years'...is reflected in the following case.

It concerns a retired sergeant of the RCMP, who wrote to me this year, a few weeks ago. He joined the force in 1929 and took his discharge in 1949 after 20 years' service.

"As pensioned member of the RCMP Sgt. as of Sept. 1949 I find myself in need of a job—I have exhausted the possibilities around here so I know that I should make an effort to contact you as you may be in a position to hear of any openings which escape me here. Although I am 62 years of age I am in good health and would be able for quite a few years to pull my weight.

My wife is confined to hospital and will probably be there for the rest of her life otherwise I have no ties here and could move around should an opportunity arise.

Would you kindly let me know if you can be of any assistance as my pension is only \$96.17 a month which does not go very far these days."

We will do everything we can to find work for this man who holds the RCMP Long Service Medal and so must have done good work for the Force and for Canada during his service years.

We were pleasantly surprised when this Special Joint Committee's terms of reference were extended to look at the pension situation, and upon learning of

this we sent a telegram to the Honourable Mr. Benson requesting that equal consideration be given to pensioners of the RCMP, the armed forces and the remainder of the public service in general.

With reference to our request that legislation be passed allowing for automatic increases to the pensions paid to the RCMP, etc. as the cost of living rises, recommendation (c) above, in our view the Parliament of Canada has created such a precedent in the Canada Pension Plan and in recent amendments to the Old Age Security Act. If this provision was made part of the several acts governing the payment of pensions to retired members of the RCMP, civil service, etc., or their dependents there would be automatic adjustments in pensions and the difficulties of bringing in new legislation, such as, the Public Service Adjustment Act, 1959, Chapter 32, might not be required in future years.

With reference to recommendation (c) dealing with the \$300.00 Marriage Accommodation Allowance paid to members of the RCMP from 1951 to 1966 and never incorporated into pensions, it is noted that when the last pay increase was given to the RCMP in October, 1966 one of the features of the raise was the incorporation of the marriage allowance for pension purposes. We are happy that this has finally been done. We wonder if it came about as a result of our recommendation. Many members of the Force when proceeding to pension between 1951 and 1966 asked why this allowance should not be included in their pension for after all it was considered income and they had paid income tax on it.

If the principle of incorporating the marriage accommodation allowance for pension purposes can be adopted in 1966, surely it has existed since 1951 and those retiring to pension since 1951 should receive any benefits derived therefrom. As a matter of interest I understand that in the Armed Forces certain allowances, i.e. medical, uniforms, have been considered in the computation of pensions for some years and since October 1966 certain other allowances have been added.

There is one other feature about the RCMP Pension Continuation Act that bothers all of us:

...we have received complaints as to why pension entitlements under this particular act...

...are "for life" and cease from the day following the death of the recipient whereas the pension entitlement under the RCMP Superannuation Act are payable until the end of the month during which the pensioner dies.

The discrimination between the two acts on this point has caused concern particularly as we have been informed that in some cases money has had to be returned to the government resulting in embarrassment to the families of the deceased pensioners.

It is indeed regrettable that there should have to be any delay in making such a minor change...

in this particular act,

the results of which would be most humanitarian.

Mr. Chairman, that is our brief.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. KNOWLES: Mr. Chairman, will the whole brief be appended to today's proceedings?

The JOINT CHAIRMAN (*Mr. Richard*): I think so. Agreed?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Do the members have any questions to put to Mr. Cassidy?

Mr. WALKER: Well, Mr. Cassidy, I may have missed some of the earlier part, but your suggestion is that any increase in superannuation would be right across the board? You are not setting any ceilings in connection with the increases? In other words, you are speaking of people whose pensions may be \$5,000, \$6,000 or \$7,000 as well as those who may have only \$75.00 a month?

Mr. CASSIDY: I am speaking for all of them, but I would hope that any increase, particularly for the older pensioners, would be a meaningful one. Those who are receiving \$40 or \$50 a month are not going to be helped by a five per cent increase; and if you are receiving \$100, \$5.00 a month is not going to help. We feel that for all pensioners there should be some sort of a basic level, if this is possible.

Mr. WALKER: Apart from this basic level, then, you are talking in terms of relating cost to the cost-of-living increases?

Mr. CASSIDY: That is right.

Mr. WALKER: This applies to all superannuates of your Association?

Mr. CASSIDY: Yes, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Senator MacKenzie?

Senator MACKENZIE: Would you think it right, Mr. Cassidy to have it on the salaries earned plus the number of years of service?

Mr. CASSIDY: I would say that at certain levels this would be the case. I also think sir, that at the lower level, where a person had, say, ten years' service and had a small pension, you might have to adjust for this.

Senator MACKENZIE: Have you any formula that would fit this necessary adjustment?

Mr. CASSIDY: No, sir, I have not. I am neither an economist nor an actuary. I do not think that I can help there.

Senator MACKENZIE: I was thinking more of a yardstick, in terms of what would be the minimum, as it were, in your view, when dealing with a pensioner at the lower level?

Mr. CASSIDY: Well, I feel that at least \$100 a month would be, for the lower levels, a basic pension; and to start from that.

Senator MACKENZIE: Would this be affected by the number of years of service?

Mr. CASSIDY: That would have to be considered, yes.

Mr. CHATTERTON: As I understand the discussion there are a number of widows who do not receive any pension at all?

Mr. CASSIDY: There are some widows, yes, who do not receive pensions. I did not say that, mind you, but there are some widows who do not receive pensions.

There are some, sir, that are widows of members who never paid out of their own pocket for the widows' and orphans pension plan which came in in 1934.

Mr. CHATTERTON: Those would be the only ones who would not be receiving?

Mr. CASSIDY: That is right. And there are a number of pensioners whose widows, once their pension dies out, have nothing.

Mr. CHATTERTON: Would you say that an adjustment would have to take in these people, too?

Mr. CASSIDY: I do not know how that could be done. It would be very good if it could be done, but I do not know how it could be done.

The JOINT CHAIRMAN (*Mr. Richard*): Well, Mr. Cassidy, you are basing your point more on equity than on need, I suppose? We have had some representations of some people, either in the armed forces or in the RCMP, or even civil servants, who have a small pension, say, but who, after having served, acquired either a business or were in a firm which provided them with another pension, and it was not really a matter of need. They have a pension of, say, \$80 a month but after they retire they do fairly well otherwise. The need of everyone who is receiving a small pension cannot be established.

Mr. CASSIDY: No; I agree with you.

Mr. CHATTERTON: Mr. Chairman, may I ask a question about the fund itself. Is there a separate pension fund for the RCM police? Is it part of the Civil Service Superannuation Fund, or is it a separate fund?

Mr. KNOWLES: This is a separate fund. Money is paid into it, and there is interest paid every year; and the interest paid in is greater than the amount paid out. It was in the tables that were circulated.

Mr. USBORNE: Under the old act, sir, the pensions were paid straight out of consolidated revenues.

Mr. WALKER: It is in the same type of fund, then, as the ones that we have been dealing with for civil servants?

Mr. USBORNE: The Superannuation Act, yes.

Mr. KNOWLES: Since 1949.

Mr. WALKER: Yes.

Mr. USBORNE: I think there are six to seven million dollars or so in the fund now.

Mr. WALKER: With contribution; and it is administered in the same way as the other funds?

Mr. USBORNE: Yes, sir.

Mr. WALKER: And the interest is the same—4 per cent?

Mr. USBORNE: Four per cent.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles?

Mr. KNOWLES: Mr. Cassidy, our immediate concern in this Committee, of course, is the aid of pensioners who are now retired. I am wondering, however, if you have any feeling that the legislation generally needs to be overhauled? One gets the impression, that it is a very complicated hodge podge.

Mr. CASSIDY: I have the same impression, sir. That is why we would like to see something positive, if possible, done to the legislation, so that we will not have to come back every few years and go through this again.

Mr. KNOWLES: The Chairman will rule us out of order—and properly—if we go very far into this, and that is why I made it just a brief question.

The immediate problem is the low pensions of those that are now retired.

Mr. CASSIDY: Exactly.

Mr. KNOWLES: You want for them the same treatment that we can give retired civil servants?

Mr. CASSIDY: Yes, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. CHARTTERTON: Mr. Chairman, have the terms of reference been broadened by the House?

The JOINT CHAIRMAN (*Mr. Richard*): Oh, yes.

Mr. CHATTERTON: They have so that we can recommend on these.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Cassidy.

Our next witness is Dr. J. C. Arnell, Assistant Deputy Minister, Finance, Department of National Defence.

Dr. J. C. ARNELL (*Assistant Deputy Minister, Finance, Department of National Defence*): Mr. Chairman, honourable members of the Senate, members of the House of Commons. I have with me today four members of the department; Mr. Whatley of the Deputy Minister's office; Lieutenant Colonel England of the Judge Advocate General Branch; and Wing Commander Crossfield and Mr. Sonley, who are responsible for handling the details of the military pensions within the department.

I want, this morning, just to review briefly for you the provisions of the two acts which are now in force and which provide for the payment of pensions or annuities to retired servicemen and pensions or annual allowances to their dependants.

The first legislation to provide pensions to retired servicemen was the Militia Pension Act which was assented to in 1901. It was stated to be an Act respecting pensions to the permanent staff and officers and men to the permanent militia and for other purposes. In 1928, the Act was amended by bringing into force Parts II and III which made the Act applicable to the Navy and Air Force. Part IV of the Act, which deals with matters affecting Parts, I, II and III, was added in 1937. On 31 August, 1946, the Act was further amended by bringing into force a new section—Part V. In 1950, the title of the Act was changed to the Defence Services Pension Act.

Thus, the Defence Services Pension Act embodied what might be termed two separate pension schemes, namely, Parts I—IV and Part V.

Parts I—IV did not apply to any person who joined the regular forces on or after the 31st March, 1946. Thus, its provisions will cease to apply as those persons who are presently subject to it reach retirement age. The number still serving in the regular forces governed by Parts I—IV is 112 officers and warrant officers and 27 men, regular forces prior to the 31st March 1946 and who elected to become contributors under Part V.

In 1960, Part V of the Defence Services Pensions Act was repealed and was replaced by the Canadian Forces Superannuation Act. At the same time, Parts I—IV were renamed the Defence Services Pension Continuation Act.

I now want to turn briefly to the provisions of the Defence Services Pension Continuation Act, that is, Parts I—IV of the former Militia Pension Act or in the interim called the Defence Services Pension Act.

Mr. CHATTERTON: I wonder if I could interrupt on a point of clarification: Those that you mention in Parts I and IV are these the ones that did not elect to go into Part V?

Mr. ARNELL: Yes.

Mr. CHATTERTON: There are quite a number that elected to go into Part V?

Mr. ARNELL: Yes, there were.

Under this act, the Continuation Act, only officers, which, in the Army and Air Force, included warrant officers, are contributors. Contributions are five percent of pay and allowances. There is no provision for any matching contribution by the Government. A person whose service was governed by this Act was eligible for a pension after having served twenty years. In addition, a non-contributor could receive a pension after fifteen years' service, if he were released on medical grounds.

The pension paid to officers and men on retirement was originally based on an amount equal to one-fiftieth of the pay and allowances received at the time of retirement multiplied by the number of years of service.

In 1929, in the case of officers, and in 1950, in the case of men, the method of calculating the pension was amended by prescribing a three-year average of pay and allowances on which to base the amount of the pension. An officer, however, who is retired due to disability or reasons other than misconduct prior to having served twenty years in the forces can receive a gratuity in an amount of not more than one month's pay for each year of service. The widow of a contributor is entitled to one-half the pension to which her husband was entitled or would have been entitled had he been released for medical reasons. There is also a compassionate allowance payable for each child ranging from twenty-five dollars to eighty dollars a year, depending on the rank of the contributor at the time of his retirement or death. No benefit, except a pension, is payable to a non-contributor under the Act.

The Defence Services Pension Continuation Act is not on an actuarial basis. The payment of benefits is provided for in the estimates.

These are the general provisions of the Defence Services Pension Continuation Act, which I believe are relevant to your deliberations. Under this Act, there are approximately 3970 pensions currently being paid, of which 1125 are paid to officers, 532 to warrant officers, 1622 to men and 691 to widows of former officers and warrant officers.

With respect to Part V of the Militia Pension Act, all members of the regular forces governed by it paid into the Superannuation Permanent Services Pension Account six percent of their pay and allowances, with the Government paying an additional five-thirds of that amount or ten percent of the pay and allowances.

Under Part V a person became eligible for a pension after serving ten years in the regular force. The pension was based on one-fiftieth of the average pay and allowances received by the contributor during the last six years of his service multiplied by the number of years of his pensionable service. Pensionable

service included not only regular force service, but prior service in the Navy, Army or Air Force of Canada, the public service, Royal Canadian Mounted Police or service in the Commonwealth Forces during the Second World War, for which the contributor elected to contribute.

A contributor who was released from the regular forces prior to having served ten years was entitled to a gratuity of one month's pay and allowances for each year of his pensionable service or to a return of the contributions made by him, depending on the reason for his release.

Where a contributor had over ten years of service in the regular forces and died while serving or died while in receipt of a pension under Part V of the Act, his widow received one-half the pension that would have been paid to him had he been released on medical grounds or that he was receiving at the time of his death. Each child received one-fifth of the pension paid to the widow with a maximum total pension paid to the widow and children equal to seventy-five per cent of the pension payable, or that would have been payable to the contributor, had he been released on medical grounds.

If the contributor had less than ten years of service in the regular forces and died whilst serving, his widow received a gratuity equal to one month's pay and allowances for each year of his pensionable service.

Part V of the Act was repealed with the coming into force of the Canadian Forces Superannuation Act on 1 March, 1960. The benefits payable under the Canadian Forces Superannuation Act are generally the same as those provided under Part V of the former act. Like its predecessor, the act is on an actuarial basis, but since 1 January, 1966, the contribution made by the contributor is six per cent of his pay and allowances, less the amount paid under the Canadian Pension Plan. The six year average used in calculating the amount of the pension is the best consecutive six years and the maximum amount of annual allowance paid to a widow and children has been increased from the seventy-five per cent mentioned previously to ninety per cent.

Under the Canadian Forces Superannuation Act, there are approximately 16,600 annuities and annual allowances being paid. Of this amount, approximately 4,365 are being paid to officers, 1,575 to warrant officers, 9,457 to men below the rank of warrant officer and 1,203 to dependents.

I have provided, as tables, six appendices, which attempt to display for you the basic statistics of the amounts of annuities or pensions listed against the years of pensionable service.

Appendix "A" is the Defence Services Pension Continuation Act—the original act—Parts I to IV. The second one reflects the same information as the first, except that it shows the age of retirement rather than the number of years of service. Appendix "C" shows those contributors on pension who were retired because of disability and became entitled to immediate annuity or pension. Appendix "D" shows the statement of the Canadian forces superannuation account. Appendix "E" gives you the transactions out of the account; and Appendix "F" lists the statistics of the number of annuities, allowances and so on, up to the end of the last fiscal year.

If there are any specific questions of detail I would hope that I could call on the experts who are with me.

The JOINT-CHAIRMAN (*Mr. Richard*): Is it agreed that these tables be made part of the record?

Some hon. MEMBERS: Agreed.

Mr. WALKER: I have one question, Mr. Chairman.

Year by year, for the same length of service, are the pensions that are now available under the Armed Forces Superannuation Act the same as or, nearly the same as, or is there a great differentiation between, the pensions being paid to the R.C.M. Police and the civil servants? Are there any comparative figures at all? In other words, for 15 years' military service does the pension amount to about the same as that of a civil servant?

Mr. ARNELL: I think one of the fundamental problems of making the comparison here is that the civil servant does not receive his pension until age 65, or, in the case of having served thirty-five years, at age 60; whereas the armed forces and police pensions come into effect after a specific number of years; and in all cases in the armed forces the retirement ages are generally between about 45 and 55 for people who have served a full tour. The result is that probably there are more pensioners of the armed forces with fewer years of service than is the case in the civil service.

I am afraid that I have not checked this. My only reference point on this was to compare our tables with those that were submitted to you earlier by the Department of Finance. The thing that did strike me, just on a quick comparison, was that the military pensions were in fact, I think, a little higher. They were certainly more high pensions among them than in the civil service.

You will notice in our tables that the first level at which we have pensions is in the bracket of \$721 to \$1080, in other words \$60 to \$90 a month; whereas in the Department of Finance table, as I recall, there were some in the \$30 to \$60 a year bracket.

I am afraid that it would take a great deal of work by the staff supporting you really to dig into this. We can support any of our data further if you need it.

The JOINT CHAIRMAN (*Mr. Richard*): On the average your men would receive a pension for a greater length of time?

Mr. ARNELL: For a greater length of time; and in many cases—this was raised earlier by yourself, I believe—quite a large number of them go on to other sort of second careers.

Senator MACKENZIE: Do you have any compulsory retirement age?

Mr. ARNELL: There are compulsory retirement ages which vary with rank and which also vary with occupation, you might say, in that the operational side of the aviation field retires earlier than does the technical side.

Senator MACKENZIE: It is the early age at which they retire that accounts for the possibility of a second career.

Mr. ARNELL: As a matter of fact, school teaching has become a rather popular second career for quite a large number of retiring air force officers, just to quote an example of second careers.

Mr. CHATTERTON: Mr. Chairman, I notice that the funds for the three branches of the services are kept separately; but there is no difference in the

pensions, under the Canadian Forces Superannuation Act, as between the Army, Navy and air force, is there?

Mr. ARNELL: No; there are no differences; but there are differences in the regulations on compulsory and voluntary retirement. These are details which are available in the regulations, if you require them.

Mr. KNOWLES: Is there a formula, such as is the case in the RCMP legislation, under which certain pensions are reduced when people retire early?

Mr. ARNELL: Yes.

May I ask Colonel England to speak on this.

Lieutenant-Colonel L. L. ENGLAND (*Judge Advocate General's Office/Pensions, DND*)

In a voluntary retirement there is a provision for a reduction in pension. In the case of officers the pension is reduced by five per cent for each year less than the prescribed age limit for his rank. That is fixed by statute. There is no discretion vested in any person in respect of that reduction.

In the case of men it is five per cent for each year less than the prescribed age limit for their rank, of five per cent for each year less than twenty-five years' service in the regular forces, whichever is the lesser; and wartime service now counts. There is no discretion. This is provided in the Act.

Mr. KNOWLES: Would you comment on the difference that seems to exist, if I understood correctly, between this and the RCMP Act, under which I think it is a straight 20 per cent in all cases.

Mr. USBORNE: No matter what circumstances, it is a straight 20 per cent under 25 years.

Mr. ENGLAND: Under the old Act, if I may term it such—the Defence Services Pension Continuation Act—which is probably very similar to the old RCMP Act, there is a provision whereby an officer who has 25 years' service may retire voluntarily with a flat 20 per cent reduction; if he had 25 years service and retired at his own request.

The Act was subsequently amended in 1960 also to provide that on a voluntary retirement the reduction would be five per cent for each year less than his prescribed age limit. So under the Defence Services Pension Continuation Act there was a choice, and the officer received the benefit of that choice.

An other rank, that is, a person below the rank of warrant officer, which includes petty officers, could retire voluntarily under the Defence Services Pension Continuation Act after twenty years' service without any deduction.

Mr. WALKER: Mr. Cassidy, I notice that in your brief you say that the purpose of the superannuation act has been eroded to such an extent that untold privation is being experienced by many of those who thought they had made adequate provisions for retirement. Are you speaking for those cases, particularly? Are you relating your requested pension increase right across the board or just for this particular group?

Mr. ARNELL: I am merely here from the Department of National Defence to tell you exactly what the situation is. I believe that there is a group following me who will give you the other side of the story.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator MACKENZIE: There is no relationship between the pension plan provisions and those for injury in war service. . . ?

Mr. ENGLAND: Under the Pension Act which comes under the Department of Veterans Affairs and is administered by the Canadian Pension Commission, that pension is based on disability and has no relation to salary or length of service. It has a slight relation to rank at the time the disability was announced. It has no relation whatsoever to this Act.

Senator MACKENZIE: That was my understanding; and it does not involve age, or anything of that kind. It has to do with injury and incapacity?

Mr. ENGLAND: It has nothing to do with age or length of service or salary.

Senator FERGUSON: At one stage in his evidence the witness used the phrase "in the case of men".

Were you differentiating between men and officers or between men and women when you said that?

Mr. ARNELL: Officers and men. It is the business of the ranks other than the officers, with the exception, as I noted along the way, of warrant officers who are classed with the officers in the navy and air force.

Mr. CHATTERTON: I have a question on voluntary retirement. I have had a few cases brought to my attention where a person had re-engaged for a five-year term. If, at the end of that time, he requested non-renewal of the contract then this would not be voluntary retirement; is that correct?

Mr. ENGLAND: When an other rank has a fixed period of engagement and his period of re-engagement comes up, he is either offered to re-engage and continue his service in the forces, or he is not offered. If he is not offered, then he is compulsorily released. If he is offered to continue service, in whichever service he is in, and refuses that offer then he is voluntarily retiring.

The actual reason for his release from the service, as would normally be determined by the Service Pension Board, would be that he severed his connection with the service at his own request, and it is therefore a voluntary release.

Mr. CHATTERTON: That sounds like an anomolous position. I mean when his term expires, in any event, it is merely a non-re-engagement. Why should there be a distinction between the two? Is there a reason for that?

Are all the members of the permanent force subject to this term engagement?

Mr. ENGLAND: At the present time a person below the rank of officer is enrolled for a fixed period, as prescribed by the Governor in Council—One, two, three, four, five, six, or seven years; he can re-engage during the period of his service provided that the unexpired portion of his engagement, together with his re-engagement period, does not exceed nine years. The answer to your question is Yes in the case of people below the rank of commissioned officer.

Mr. CHATTERTON: Has this created a great deal of trouble amongst the men on the non-re-engagement—some of them receiving a reduced pension and others not—simply on whether they had been offered re-engagement or should they not have been offered re-engagement?

Mr. ENGLAND: Will, what happens is that when a person's period for re-engagement comes up someone must re-assess whether that man should

continue to be in the service in which he is serving. An assessment of his service takes place at that stage, if not before.

Mr. CHATTERTON: Actually, the man with a poor record is given an advantage. A man who is not offered renewal gets a full pension, whereas the man who has given good service, and has reason not to renew, is penalized.

Mr. ENGLAND: Well, he is penalized because he is voluntarily retiring and he is going out at his own time and at his own choice. On the other hand, the person who is not re-engaged because of his prior conduct or inefficiency is subject to a reduced pension.

Mr. CHATTERTON: Oh, I thought you said that the reduction applied only in the case of voluntary dis-engagement.

Mr. ENGLAND: No, no. I may have said that; I did not go into the details; but the Act provides for a reduced pension, or a return of contributions in certain cases, where a person is not re-engaged, or is compulsorily retired, prior to his engagement and the reason for his not being re-engaged or for being compulsorily retired was his inefficiency in the performance of his duties, then the Act provides that he receive a reduced annuity.

Mr. CHATTERTON: What if this disengagement is occasioned by his service being surplus to requirement?

Mr. ENGLAND: In that case there is a provision in the Act for a reduction due to economy, or efficiency in the forces. If it is due to an over-all reduction in the forces he may be subject to a reduction in his pension. That reduction would be based on five per cent for each year of service in the regular forces less than twenty, and his wartime service would count as regular force service for that purpose.

If he was in the service before 1949, or if he has 20 years' regular force service and he is compulsorily retired to promote economy and efficiency due to a reduction in the establishment of the overall forces, or for some other reason that would promote economy or efficiency in the forces—in other words, compulsorily released, and it is not due to age, medical, misconduct or inefficiency, or through any fault of the man—then he would receive a pension without any reduction.

Senator FERGUSON: I would like to know if there are a great many who are not offered re-engagement?

Mr. ENGLAND: I am not in a position to answer that question, Mr. Chairman. I am on the legal side, advising the Service Pension Board. This would be a service matter, and I really could not answer it.

Mr. ARNELL: I think we will have to get you the information, Senator Ferguson, if you want it. It is not available to us today.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions.

Mr. WALKER: I only have this comment to offer. I would bet that there are not very many armed forces people who have a clue about how much pension they are going to get if it is as confusing to them as it is to me at the moment.

How does an ordinary mortal decide what his pension is going to be before he leaves the armed forces?

Mr. ENGLAND: Well, the ordinary mortal, on general principles, knows how many years' service he has and he knows that he is going to get two per cent for each year of service. We have a great deal of literature out to explain his pension

calculations as much as possible, in orders and so on. It is based on a six year average of his pay and allowances. Therefore, the ordinary mortal can make a rough guess; and he can also receive the exact amount, if he asks for it from the service because they will give him an estimate if he is due to retire.

Mr. WALKER: Do most of them know about what I call the penalizing clause of not renewing their contract.

Mr. ENGLAND: I am sure that they certainly know the penalizing aspects of it, on the voluntary retirement. No one would know better than Mr. Chatterton and Mr. Knowles as a result of letters that they have received and of which I am aware. Therefore, they are aware of reduced pension benefits; and it is surprising how many are aware of the possible benefit that they will receive on retirement.

Mr. KNOWLES: The old age pensioners trying to figure out their supplements are in trouble.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker probably forgot that many men would not want to take a contract to enter the forces for a fixed term higher than some of the terms that are offered. They would not want to have to guarantee that they were going to stay in the forces for twenty years.

Are there other questions?

Thank you, gentlemen.

The Association of Canadian Forces Annuitants is represented today by the Secretary-Treasurer, Mr. D. H. Baker.

The members of the Committee have a copy of the brief before them.

Mr. H. D. BAKER (*Secretary-Treasurer, Canadian Forces Annuitants*): Mr. Chairman, ladies and gentlemen: On behalf of the Association of Canadian Forces Annuitants I wish to thank you for inviting us to appear before this Committee. It is regretted that because of the short time at our disposal we were not able to obtain a French translation of our brief. As you can see, it is a very brief brief. Our submission is as follows:

Knowing that other briefs on public service annuities have given facts and figures concerning the loss of purchasing power of pensions this submission, in dealing with the principles involved, has been kept as short as possible.

The Association of Canadian Forces Annuitants contends that the Canadian Forces Superannuation Act was instituted to provide retired military personnel with a standard of living based on the salary and length of service that each individual had attained at the time of retirement. However, because of the continued and increasing devaluation of the Canadian dollar in terms of its purchasing power, and the early age at which military personnel are retired, the purpose of the superannuation act has been eroded to such an extent that untold privation is being experienced by many of those who thought they had made adequate provision for retirement.

It is true that the Canadian government has long been aware of this problem and that in 1958 it provided partial but temporary relief by putting a floor under pensions—under some of the pensions. However, that was nearly ten years ago—ten years in which the cost of living has gone up alarmingly. It is encouraging to note that the present government has recognized the fact that a pension must maintain its original purchasing power, as demonstrated by the

built-in escalation features in both the Canada Pension Plan and the old age security program.

Because many military personnel are retired between the ages of 45 and 50, often with military skills that have no counterpart in civilian life, the loss of the purchasing power of their pensions over a period of 10, 20 or 30 years is a serious problem. Social justice demands that the government take action now to ensure that military personnel who are retired will have the original purchasing power of their pensions restored, and that those who will retire in the future will be freed from the haunting fear that hangs over servicemen as they enter their forties.

The restoration of the original purchasing power of pensions would restore confidence in military service as a career and would enable the Canadian government to regain the lead it once held in pension plans.

That is our submission, sir.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you.

Senator MACKENZIE: You made mention of a floor that was put under pensions. How much was that floor? What would it be?

Mr. BAKER: I believe, sir, that in 1958 pensions were increased either by 35 per cent, to up to \$3,000, whichever was—

Senator MACKENZIE: Up to \$3,000 per year?

Mr. BAKER: Yes; per year.

Perhaps Mr. Clark from Finance could confirm that.

Mr. H. D. CLARK (*Director, Pensions and Social Insurance, Department of Finance*): Mr. Chairman, it is correct that the pensions which had been in place since 1945 were increased by 32 per cent. This percentage was graded down, and it was possible to get a \$640 increase as related to a pension of \$2,000. There was also the other provision, which Mr. Baker mentioned, that the pension, after the increase, could not exceed \$3,000.

Mr. LEWIS: It did not mean that everybody was up to \$3,000?

Senator MACKENZIE: No. This was the ceiling rather than the floor. It does affect the general problem of pensions in a sense that if you think of them in terms of as a reward for services rendered, that can be calculated, if you like; but if you think of them in terms of need, obviously the needs of those who are 65 or over may be greater than those who retire at 45 and find other employment. This would make the setting of a plan to take care of those two groups difficult.

Mr. BAKER: Yes.

Senator MACKENZIE: The main problem is still the eroding of the purchasing power of what might be considered a return for services rendered.

Mr. BAKER: Yes.

Mr. CHATTERTON: Mr. Baker, is your organization affiliated with others such as the petty officers' association, the retired naval officers' association, the air force officers' association, and so on?

Mr. BAKER: No, sir; our association if I might use the term, is an integrated association of the three services. The members in general are also civil servants.

Mr. CHATTERTON: They are also civil servants?

Mr. BAKER: Or are interested in joining the civil service.

Mr. CHATTERTON: What would your membership be, roughly?

Mr. BAKER: Oh, we have about 250 members in the Ottawa area.

Mr. CHATTERTON: That is strictly in the Ottawa area.

Mr. BAKER: Our association is just over a year old.

Mr. CHATTERTON: I see.

Mr. BAKER: It was formed locally, and most of the members are in Ottawa.

Mr. CHATTERTON: Are most of them working in the civil service now?

Mr. BAKER: Yes; most of them are.

Mr. KNOWLES: I should like to ask you, Mr. Chairman, whether any associations such as Mr. Chatterton named—that is, associations such as retired armed forces personnel who are not in the civil service—have asked to appear?

The JOINT CHAIRMAN (*Mr. Richard*): One organization related to the Royal Canadian Air Force made some inquiries, but they have made no further approaches.

Mr. BAKER: Sir, when writing our brief we consulted the secretary of the RCAF association.

Mr. CHATTERTON: What is our intent on procedure? Will there be time to hear from these other organizations? They may not have been notified.

I may have been remiss, too. I know of several that exist. Perhaps they could just send in a brief.

The JOINT CHAIRMAN (*Mr. Richard*): It all depends on how long you want to keep this open. That could take quite a long time.

Mr. CHATTERTON: It could, yes.

The JOINT CHAIRMAN (*Mr. Richard*): If you want to hold this over until the next session, it would be all right. I am not going to say much more than that at this time, but we could—

Mr. CHATTERTON: Well, I do not want to delay. It seems to me that their problem from my general knowledge, is very similar to the problem of the retired civil servants.

The JOINT CHAIRMAN (*Mr. Richard*): I think everyone in this country is very well aware that this Committee has been sitting and has been willing to receive representation from all parties concerned.

Mr. KNOWLES: And if we had these other associations they would make the the same point, namely, that they would want to be treated in the same way as we treat other government annuitants.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. CHATTERTON: Is it proposed, Mr. Chairman, in general terms, that this Committee report in this session?

The JOINT CHAIRMAN (*Mr. Richard*): That has been my hope, and it was my understanding at the time I joined this Committee; although it may depend on how many more witnesses you want to have and on how long it will take us to complete our report.

I think it is much more important for us to decide what kind of report we want to make, or what suggestions we have to make among ourselves, than to hear many more witnesses at this time.

We could have had a number of individuals. There is a gentlemen here in this room this morning, I understand, who has an individual case. He sent a letter. I would not want to make it a precedent, that the Committee hear individual cases, because we all have files of individual cases. However, I have this letter from the gentleman who is here. Does the Committee want to hear facts? The gentleman is here.

Mr. CHATTERTON: I know that many of these organizations have made presentations to the government, and I am wondering whether it would be in order and proper for us to acquire some of these representations that have been made, for our guidance?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. CHATTERTON: If we could do that, perhaps we might avoid the delay of hearing further witnesses.

The JOINT CHAIRMAN (*Mr. Richard*): For example, the brief which we received this morning from the Royal Canadian Mounted Police Veterans' Association was presented to the government on January 10 and on February 4. There may be other briefs of the same nature from other organizations such as you mentioned. I shall be happy to find out if these are available.

Mr. KNOWLES: Perhaps we should have a meeting of the Steering Committee to decide where we go from here.

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

Mr. KNOWLES: If this meeting terminates very soon perhaps it could be held right now, if they are here.

The JOINT CHAIRMAN (*Mr. Richard*): Should I just table this letter, or do you want to hear this gentleman? He is here now.

Mr. KNOWLES: It is up to you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Cooper, we shall take a few minutes.

You will understand that as an individual. . .

Mr. WILLIAM C. COOPER: I should like only five minutes of your time.

The JOINT CHAIRMAN (*Mr. Richard*): You are welcome.

M. KNOWLES: We could have had thousands.

The JOINT CHAIRMAN (*Mr. Richard*): We could have had many. I think the most simple method would be for you to read the letter. It can be part of the record then.

Mr. COOPER: Mr. Chairman, Senators, Members, my letter says:

May I submit to your Committee three pertinent facts that I feel you should consider when investigating the increases for pensioners.

1. A man leaving the naval service of Canada in 1948 completing 20 years of service and discharged as a chief petty officer received under the military Pension Act, Part IV, a pension of approximately \$83 a month.

2. A man leaving the same service in 1966, completing 20 years of service and discharged as a chief petty officer, receives a pension of approximately \$238 a month.

3. The pension for a man discharged in 1948 was calculated on wages established in the early twenties. During World War II an increase of \$15 a month marriage allowance was granted. The next increase in wages was July 1948 when a chief petty officer received approximately \$10 a month.

During the last 18 years a service man's pay for pension calculation has increased about 284 per cent, and the pensioner's pension has increased by 8 per cent authorized by P.C. 1958-1366. Increases in Certain Public Service Pensions.

I am in receipt of a military pension No. A-402504. May I request permission, providing you feel I can contribute something useful to this investigation, to appear on my own behalf before the Committee to answer relevant questions on these three facts.

Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): With respect to what you suggest, some representations have been made in tables which have been presented to us. For example, the pension in 1948 would be about a third of the pension in 1966.

Mr. Cooper, we have several tables submitted to us by organizations and by the Treasury Board, showing this. However, this confirms the tables.

Mr. COOPER: In the various briefs from the government and from the different organizations reference is made to that order in council. I am just speaking from memory now, but, for instance, the man that went on pension in December, or in the last quarter, of 1948, compared to the man that went on in January of the same year, showed a 12 per cent difference in the amount of increases, as I mention in my letter, and so on down the line.

I do not wish the Committee to feel that I am complaining. All I am saying is that the ratio between the pensions received and the amount of the pay increases in the civil service and in the military forces is just too far apart. During the last 18 years I have received \$18,000, and the man who goes out with a pension of \$238 is going to reach \$18,000 in a very few years—perhaps six years.

Nobody has come up with a definite method of increasing the pension. I do not know whether you are interested in hearing a possible solution, but it is one that has been used in the British Royal Navy, and, as far as I am aware, in navy pensions in the United States. They have increased the pensions at a certain rate. I think it is time in Canada, because of our high cost of living today and the great spread in purchasing power between now and 1948, and realizing that the wages we were paid in 1948 were based on the 1920's—that is, we are going on a spread of 40 years—that the pension should be calculated on the rate of salary that a man earns today, so that we arrive at an arbitrary figure somewhere in this line.

The JOINT CHAIRMAN (*Mr. Richard*): How old were you when you retired?

Mr. COOPER: I joined the navy when I was 19 and a half, and I retired at 39 and a half.

The JOINT CHAIRMAN (*Mr. Richard*): What did you do after you retired?

Mr. COOPER: I was living in Victoria, and there was no work in Victoria. I moved to Ottawa and joined the civil service as an assistant technician 3.

The JOINT CHAIRMAN (*Mr. Richard*): Are you retired now?

Mr. COOPER: I am not retired, sir. I am still working for the government, in the Department of National Defence, as a Technical Officer 3, in the supply branch.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

Are there any other questions?

Thank you, Mr. Cooper.

Mr. COOPER: Thank you.

The JOINT CHAIRMAN (*Mr. Richard*): This public meeting is adjourned. We will constitute ourselves as a committee *in camera*.

APPENDIX AA

R.C.M. POLICE PENSIONS

Pensions are payable to retired members of the Force and to widows and children under two Statutes, namely, the *Royal Canadian Mounted Police Superannuation Act* and the *Royal Canadian Mounted Police Pension Continuation Act*.

1. *R.C.M. Police Superannuation Act*

Application—This Act applies to all members of the Force who have been engaged since March 1, 1949, as well as those members who were engaged prior to that date and have elected to become contributors to this Act.

Contributions—Members are required to contribute 6 per cent of their pay for pension purposes (5 per cent in the case of females), less the amount which they are required to contribute to the Canada Pension Plan.

Service Pensions—Pensions are based on the pay received over the best consecutive six years of pensionable service and are calculated at the rate of 2 per cent for each year of service or part thereof, not exceeding thirty-five years. Contributors may elect to count as pensionable service, service as set forth in Section 5 of the Act.

A contributor who is compulsorily retired from the Force, having reached the age limit and having completed at least ten years' service in the Force, is entitled to an immediate pension in accordance with Section 10(1)(b).

A contributor, having become disabled, may be invalided from the Force with an immediate pension without penalty if he has to his credit at least ten years' pensionable service. Section 10(2)(b).

A member, other than an Officer, may voluntarily retire with a reduced pension upon completing 20 years' service in the Force, or with a full pension based on his pensionable service upon completing 25 years' service in the Force.

An Officer, not having reached retirement age, may voluntarily retire with a deferred pension or an annual allowance upon completing 20 years' service in the Force, or with a full pension based on his pensionable service upon completing 35 years' service in the Force.

Members of the Force may be compulsorily retired by reason of misconduct or to promote economy or efficiency. Such members, having completed at least ten years' service in the Force, may be granted a pension.

The widow of a contributor who had completed 10 or more years of pensionable service is entitled to a pension. This pension is equal to one-half of the pension to which the contributor would have been entitled had he been compulsorily retired from the Force by reason of having become disabled. In addition, the children of the contributor are entitled to allowances.

Disability Pensions—Under Section 27 of the Act, an ex-member or his widow and children are entitled to a disability pension if the member has suffered a disability or has died as a result of his service in the Force. This pension is payable in accordance with the rates set out in Schedules "A" and "B" of the Pension Act and is in addition to any service pension payable.

2. R.C.M. Police Pension Continuation Act

Application—This Act applies to all members of the Force who were engaged prior to March 1, 1949 with the exception of those who have elected to become contributors to the R.C.M. Police Superannuation Act.

Officers' Pensions—Part II—Officers are subject to Part II of this Act and are required to contribute 5 per cent of their pay for pension purposes. Their pensions are calculated on the basis of 1/50th of the pay of their rank at the time of their retirement for each completed year of service not exceeding 35.

An Officer is compulsorily retired upon reaching the age limit for his rank or upon completing 35 years' service, whichever occurs first, unless he has been granted an extension of service. He may, however, be compulsorily retired prior to reaching the age limit or completion of maximum service.

An Officer who is compulsorily retired, for any reason other than misconduct or inefficiency, having completed at least ten years' service, is entitled to a pension.

An Officer who retires voluntarily after 35 years' service is entitled to the same pension as if he were retired compulsorily. He may retire voluntarily after 25 years' service, however, with a pension reduced by 20 per cent.

The widow of an Officer is entitled to a pension equal to $\frac{1}{2}$ the pension payable to her late husband. A compassionate allowance is also payable to the children.

Non-Commissioned Officers and Constables Pensions—Part III

Non-Commissioned Officers and Constables who are subject to Part III of this Act are not required to make any contribution for their pension.

- (a) If they have completed 10 but less than 21 years' service, their pension is calculated on the basis of 1/50th of their annual pay and allowances during the last year of service for every year of service;
- (b) If they have completed 21 but less than 25 years' service, they are entitled to a pension equal to 20/50ths of their annual pay and allowances during the last year of service, with an addition of 2/50ths of such pay and allowances for every completed year of service above 20 years;
- (c) If they have completed 25 years' service, they are entitled to a pension equal to 30/50ths of their annual pay and allowances during the last year of service, with an addition of 1/50th of such pay and allowances for every completed year of service above 25 years.

The pension shall not exceed 2/3rds of such annual pay and allowances.

A Non-Commissioned Officer or Constable is entitled to a pension upon reaching the age limit or upon being invalided from the Force if he has completed 10 years' service.

A Non-Commissioned Officer or Constable may voluntarily retire after completing 20 years' service.

A Non-Commissioned Officer or Constable is compulsorily retired upon reaching the age limit for his rank or upon completing the maximum service for

pension purposes, which is 29 years, unless an extension of his service has been authorized.

The widow of a Non-Commissioned Officer or Constable is not entitled to any part of the pension paid to her late husband.

Widow's and Orphans' Pensions—Part IV—This Part came into force in November, 1934 and provides for a pension to the widow and an annuity to the children of Non-Commissioned Officers and Constables who joined the Force prior to March 1, 1949, as well as those Non-Commissioned Officers and Constables who joined the Force prior to November 1, 1934 and elected to become contributors.

A deduction of 5 per cent is made from the pay of the member concerned, and in addition, a member may authorize a supplementary deduction from his pay to purchase additional benefits.

Pensions Payable in Respect of Death While on Duty

Section 64 of the R.C.M. Police Pension Continuation Act provides for a pension to the widow and a compassionate allowance to each of the children of any Officer who loses his life in the performance of duty as a result of hardship, accident, misadventure, or violence.

The pension to a widow is equal to 1/2 the pay and allowances that would have been permitted her deceased husband for pension purposes at the time of his death. This pension is payable notwithstanding the length of service.

Section 78 of the R.C.M. Police Pension Continuation Act provides for a pension to the widow and a compassionate allowance to each of the children of a Non-Commissioned Officer or Constable who loses his life in the performance of duty as a result of hardship, accident, misadventure or violence.

The pension to a widow is equal to 1/2 the pay and allowances which would have been permitted her deceased husband for pension purposes at the time of his death. This pension is payable notwithstanding the length of service.

R.C.M. POLICE PENSIONS—APPENDIX A
TABLE OF RETIREMENT AGES APPLICABLE TO RANKS AND CLASSES
OF MEMBERS OF THE R.C.M. POLICE

Commissioner.....	62 years
Deputy Commissioner.....	61 years
All other Officers, and all members of the Force not holding a rank in the Force.....	60 years
Corps Sergeant Major, Staff Sergeant Major, Sergeant Major and Staff Sergeant.....	58 years
Sergeant.....	57 years
Corporal, Constable, Special Constable and Marine Constable.....	56 years

R.C.M. POLICE PENSIONS—APPENDIX B

1. R.C.M.P. PENSION CONTINUATION ACT

	Part II	Part III	Part IV	Killed on Duty	
				Sec. 64	Sec. 78
a) Number of Contributors/Members to whom applicable.....	165	581	581		
b) Pensions payable to Officers.....	100				
c) Pensions payable to N.C.O.'s & Csts.....		1782			
d) Pensions payable to Widows.....	66		79	2	11
e) Allowances payable to Children.....	12		58	—	4

2. R.C.M.P. SUPERANNUATION ACT

	Part	Killed on Duty Section 27
a) Number of Contributors.....	7559	
b) Pensions payable to Officers.....	12	
c) Pensions payable to N.C.O.'s & Csts.....	228	
d) Pensions payable to Widows.....	58	
e) Allowances payable to Children.....	24	12

R.C.M. POLICE PENSIONS—APPENDIX C

DISTRIBUTION OF PENSIONS BY AMOUNT

Amount of Pension	Continuation Act		Superannuation Act		TOTALS
	Officers and N.C.O.'s	Widows*	Officers and N.C.O.'s	Widows	
Under \$600.....	132	50		10	192
600 to 899.....	16	29	9	16	70
900 to 1,199.....	77	11	9	13	110
1,200 to 1,799.....	334	35	37	10	466
1,800 to 2,999.....	633	26	107	9	775
3,000 to 3,999.....	344	6	44		394
4,000 to 4,999.....	213	1	14		228
5,000 to 5,999.....	27		4		31
6,000 to 6,999.....	13		3		16
7,000 to 7,999.....	13		13		26
8,000 to 8,999.....	5				5
9,000 to 9,999.....	9				9
10,000 to 10,999.....	11				11
11,000 and Over.....	5				5
	1,882	158	240	58	2,338

*This column includes widows who are receiving pensions under Part IV of the Act. Benefits under this part are purchased solely by contributors. No contributions are made by Government.

APPENDIX "BB"

BRIEF TO THE SPECIAL JOINT COMMITTEE OF THE
SENATE AND OF THE HOUSE OF COMMONS ON THE
PUBLIC SERVICE OF CANADA RE INCREASE IN
PENSIONS FOR ROYAL CANADIAN MOUNTED
POLICE PENSIONERS AND WIDOWS

presented by the Royal Canadian Mounted Police Veteran's Association

March 14, 1967.

On January 10, 1966 a brief was submitted to the Government requesting an increase to Royal Canadian Mounted Police Service pensions, on February 4th, 1967 a further brief was made, copies of both briefs are included herewith.

In summary the recommendations contained in such briefs are as follows:

- (a) that the pensions of retired members of the Royal Canadian Mounted Police and their widows, civil service, Armed Forces and the Public Service be increased;
- (b) that R.C.M. Police, civil service, Armed Forces and public service pensions be administered in a more enlightened manner so that the value of a pension in terms of its purchasing power will be guaranteed for the life of the pension;
- (c) that the \$300.00 marriage accommodation allowance and all other allowances which were paid to the R.C.M. Police and which were subject to Income Tax, be incorporated into the pension of those so qualifying;
- (d) that whatever method is used to adjust pensions upwards, the provisions of Section 4 of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, should not apply;
- (e) that the R.C.M. Police Pension Continuation Act be amended to provided for pension payment to the end of the month in which the pensioner dies, same as the R.C.M. Police Superannuation Act, the Public Service Superannuation Act, the Canadian Forces Superannuation, the Pension's Act, and The Family Allowance Act.

January 10, 1966

ROYAL CANADIAN MOUNTED POLICE VETERANS ASSOCIATION

Dominion Headquarters

2451 Riverside Drive, Box 400, R.R. No. 5, Ottawa 8, Ontario

Request to Increase RCMP Service Pensions

On May 28, 1965, the Dominion President wrote to the Right Honourable Lester B. Pearson, P.C., M.P., Prime Minister of Canada, drawing to his attention that the pensions paid to former members of the RCMP, civil service and the

Armed Forces or their dependents, were last increased on July 1, 1958. The authority for the increases was first dealt with by Order-in-Council P.C. 1958-1366 of October 2, 1958, and by Vote No. 667 of the Appropriation Act, November 5, 1958, and later in the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959.

In the letter to the Prime Minister it was stated that due to the increased cost of living since 1958, the recipients of RCMP pensions have been unable to maintain a decent standard of living and their needs were continually being brought to the attention of Dominion Headquarters of the Royal Canadian Mounted Police Veterans' Association. Even with the assistance of Old Age Security those pensioners of an age to qualify for benefits were having a difficult time. On the other hand many of the pensioners had not reached an age to qualify for Old Age Security and their welfare was affected accordingly. It was pointed out that the majority of pensioners affected by the 1958 revision would never benefit from the Canada Pension Plan. It was urgently requested that pensions be adjusted in accordance with the principles laid down in 1958 and with the principles for automatic adjustments brought about by the escalation in the cost of living as recognized in the Canada Pension Plan and Old Age Security.

A copy of the letter of May 28th to the Prime Minister was sent to the Honourable Guy Favreau, Minister of Justice and to the Honourable Walter Gordon, Minister of Finance.

Under date of June 3, 1965, the Dominion President was advised by the Secretary of the Prime Minister that the Right Honourable the Prime Minister had noted the representations made and, at his direction, the matter was being referred to the Ministers of Justice and Finance.

In answer to the Dominion President's request of July 10th, 1965, to the Honourable Lucien Cardin, Minister of Justice for an appointment to discuss the matter of increasing the pensions of retired members of the RCMP, the Minister in his reply of August 4th, 1965, drew to attention the remarks of the Prime Minister as recorded on page 838 of the House of Commons Debates of Monday, May 3, 1965, when replying to a request by a Member of Parliament for the Government to reconsider the matter of increasing the pensions of retired civil servants as follows:

"...I should like to add that we have considered the representations made on behalf of retired civil servants on at least two occasions during the past year. The government considers that the additional provision which Parliament has recently made to increase the amount of the old age security benefit by \$10 a month, and to lower the age of eligibility next year to 69 and progressively thereafter to 65, does represent an added benefit for most retired civil servants and indeed for most elderly Canadians, which is more substantial and significant and applies to a larger number of retired civil servants than the request...made..."

The Minister of Justice also said in his letter of August 4th, 1965, that he believed it was fair to say that all retired federal employees must be treated in the same manner and that one group of former government employees must be related to an equal consideration of service pensions of all former government employees.

On August 24th, 1965, the Dominion President had the pleasure of meeting with the Minister of Justice and among several things discussed was the service pensions of retired members of the RCMP.

During the discussion of service pensions the Dominion President made the following points:

1. The Prime Minister's statement on pensions made in the House of Commons on May 3, 1965, pre-dated the submission to him of May 28, 1965, and there was no reference to it in his letter to the Dominion President on June 3, 1965;

2. the Prime Minister said that he had directed his colleagues, the Minister of Justice and the Minister of Finance to look into the matter;

3. that RCMP pensions were adjusted upwards in 1925, apart from other members of the public service, and in 1958 they had been adjusted upwards, along with the pensions of retired civil servants and former members of the Armed Forces, because of increased living costs;

4. that the Prime Minister's answer of May 3, 1965, in the House of Commons, was in reply to a protest made by the Civil Service Federation of Canada and concerned civil service pensions. The Dominion President's submission was different as RCMP pensioners were not retired civil servants and in addition we had made representations on behalf of all retired employees of the Public Service and the Armed Forces;

5. that the extra \$10 per month given to old age pensioners referred to in the Prime Minister's reply in the House of Commons on May 3, 1965, had little or no bearing on the pensions of the retired employees of the federal public service as their relative position remained the same because the extra \$10 applied to all old age pensioners;

6. that the lowering of the age of eligibility for old age pensioners to 69 years in 1966 and progressively thereafter to 65, had a great deal of merit for all Canadians, but the plight of the older federal public service pensioners was now;

7. that no one could find fault with the government's responsibility to curb inflation but the fact could not be ignored that the cost of living continued to rise as demonstrated by the 14.4 points (11.5%) increase in the consumer's price index since the last adjustment to pensions in 1958 and that between July 1964 and 1965 the increase was 3.3 points—in fact nearly 40 cents had been whittled off the 1949 dollar in terms of what the consumer buys;

8. that Judge J. C. Anderson's report on the pay of postal employees showed the injustice of making wage revisions every two years, surely a federal government pension revision every 15 to 20 years was equally unjust;

9. did not all former employees of the Public Service deserve better treatment from their former employer and should not the pensioners of the RCMP who continued to work for the good of Canada deserve some consideration for their efforts;

10. that the pay of members of the RCMP was never sufficient to build security for the future by way of savings because the members during service were subject to a great many transfers at considerable inconvenience and expense to themselves and their families;

11. that particularly during the period prior to and immediately after World War II, the older pensioners who saw service at that time were subjected to rigours, isolation and hardships with very low pay and now a dwindling pension was their only reward;

12. that the \$300 marriage allowance paid to members of the RCMP for several years had never been applied to pensions and yet the federal statutes under which the RCMP are constituted and operated states that pensions are based on pay and allowances;

13. that the government had recognized the need for automatic adjustments in the Canada Pension Plan and Old Age Security because of increased cost of living and adjustments to the wages of the civil service, RCMP, Armed Forces and other members of the Public Service from time to time, why therefore could not the pensions of former federal government employees be automatically given the same treatment. Such action would remove the stigma attached to federal government pensioners that they who had worked so hard in the interests of Canada while in service now felt that Canada was no longer interested in them.

The Minister of Justice expressed interest in the Dominion President's arguments and said that he would make them known to the members of the Treasury Board. Quite rightly, he said that no preference could be given to RCMP pensioners without giving equal consideration to other retired federal government employees.

On November 26, 1965, the Minister of Justice requested that the Dominion President again write to him on this matter.

It is noted that the responsibility for the Royal Canadian Mounted Police, and consequently for the affairs of RCMP pensioners, has been transferred, effective January 1, 1966, from the Honourable Lucien Cardin, Minister of Justice, to the Honourable L. T. Pennell, Solicitor-General.

Because of the change in Ministers, it is the privilege of the Dominion President to bring this very important matter to the attention of the Honourable L. T. Pennell, Solicitor-General, along with the following supporting information which justifies an increase in service pensions.

The following figures are very enlightening as to the amount of pensions payable under the RCMP Pension Continuation Act based on the maximum pay and the maximum service for selected ranks over the past 30 years:

Ranks	1935	1945	1955	1965	Percentage change 1935-1965
Constables	\$ 914.16	\$1,218.33	\$2,560.00	\$3,773.33	+312.8%
Corporals	1,008.33	1,373.33	2,776.00	4,156.66	+312.4
Sergeants	1,216.66	1,642.50	3,112.00	4,676.66	+284.3
Staff-Sergeants	1,277.50	1,703.33	3,424.00	5,046.66	+295.2
Inspectors	2,401.00	2,744.00	4,989.60	7,140.00	+197.4
Superintendents	2,905.00	3,234.00	5,636.40	8,610.00	+196.4

It will be agreed that these figures are very illuminating and that the difference in pension paid for comparable service demonstrates very clearly the

need for an upward revision in pensions, and the implementation of automatic adjustments as the cost of living rises.

Another very important consideration is that pensions payable to former constables and non-commissioned officers under Part III of the RCMP Pension Continuation Act are terminated upon the death of the pensioner. The surviving widow receives nothing unless she is covered by Part IV of the same Act which was made mandatory to those joining the Force after October 1, 1934, but not for those joining prior to that date.

Of consideration is the position of pensioners in relation to other Canadian taxpayers, as arranged according to average incomes, and taken from the 1965 edition of Taxation Statistics published by the Department of National Revenue:

Occupation	Number	Average Income
Doctors and Surgeons	15,019	\$ 19,433
Lawyers and Notaries	7,728	16,283
Engineers and Architects	2,594	14,989
Dentists	5,092	13,679
Accountants	4,590	10,994
Salesmen	51,311	6,290
Other Professionals	8,637	6,139
Investors	147,424	6,055
Entertainers and Artists	3,606	5,997
Business Proprietors	214,007	5,457
Fishermen	4,177	4,985
Farmers	92,026	4,582
Employees	4,295,491	4,351
Unclassified	13,759	4,106
Pensioners	61,912	3,233
Total	4,927,373	4,550

Also of significance are the figures recently published by the Dominion Bureau of Statistics on the average income for all non-farm families and unattached individuals which rose to \$5,195 in 1963 compared to \$4,815 in 1961. Families whose income came mainly from wages and salaries recorded a gain of 6.6 per cent in average over this two-year period. Unattached individuals reported an average income of \$2,397 and all families containing two or more persons \$5,939; for both groups these figures indicate increases in average income of over 10 per cent as compared to 1961.

There has also been a significant upward movement in the labour income per paid worker from the fourth quarter of 1959 to the same quarter in 1964. For this period the movement was 19.3 per cent or about 5 per cent per annum. This movement has accelerated in recent years, for example, from the second quarter of 1964 to the same quarter in 1965 it was 10.5 per cent.

In addition, Canada's consumer price index rose 0.6 per cent to 140.2 in November, 1965, from 139.3 in October. The November index was 3.2 per cent higher than the November, 1964, index of 135.9.

On the basis of the movement of salaries since 1959, the significant increase in labour income and the accelerated cost of living, there is ample justification for an increase in pensions.

In summary, it is requested:

- (a) that the pensions of retired members of the RCMP, civil service, Armed Forces and Public Service be increased;
- (b) that pensions be automatically increased as the cost of living rises;
- (c) that the \$300 marriage allowance paid to members of the RCMP for several years be incorporated into the pensions of those so qualifying;
- (d) that whatever method is used to adjust pensions upwards, the anomaly created by Schedule C of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, relative to the recipients of more than one federal pension be cancelled as the limitations imposed therein are considered to be no longer realistic.

Finally let it be said that there has been a progressive deterioration in the morale of the older RCMP pensioners as result of the failure of the government to improve their very unsatisfactory position.

606 Bathurst Ave.,
Ottawa 8, Ontario.
FEBRUARY 4, 1967.

Mr. T. D. MacDonald, Q.C.,
Deputy Solicitor General,
Justice Building,
Ottawa, Ontario.

Dear Mr. MacDonald:

Thank you for the interview on January 30th, 1967 and for the opportunity of making representations for an increase in the pensions paid to retired members of the RCMP or their dependents.

It was thoughtful of you to have present Chief Superintendent P. R. Usborne, RCMP, and Mr. Gordon Brown, Director of Personnel of your office.

At the completion of our discussion you requested that I write to you confirming the several points covered and I am most pleased to reply at this time.

Number of Pensioners

The number of pensions presently being paid under the RCMP Pension Continuation Act and the RCMP Superannuation Act to former members and widows are as follows:

Pensions Payable Under Part II and III of the RCMP Pension Continuation Act	
Officers' Pensions	99
Officers' Widows	70
NCOs. @ Csts. Pensions	1770
NCOs. & Csts. Widows	11
<hr/>	
Total	1950

Pensions Payable Under the RCMP Superannuation Act

		1950
Officers' Pensions	11	
Officers' Widows	5	
NCOs. & Csts. Pensions	213	
NCOs. & Widows	53	
		<hr/>
Total	282	282
		<hr/>
Grand Total		2232

Pension Brief

On January 10, 1966 this Association sent a brief to the Honourable L. T. Pennell, Solicitor General requesting an increase in RCMP service pensions. I am pleased to enclose a copy of the brief.

On February 10, 1966 at Mr. Pennell's invitation the contents of the brief were discussed with him, and the four recommendations contained in the brief were reviewed.

Recommendations

These recommendations are as follows:

- (a) that the pensions of retired members of the RCMP, civil service, Armed Forces and Public Service be increased;
- (b) that pensions be automatically increased as the cost of living rises;
- (c) that the \$300 marriage accommodation allowance paid to members of the RCMP for several years be incorporated into the pensions of those so qualifying;
- (d) that whatever method is used to adjust pensions upwards, the anomaly created by Schedule C of the Public Service Pension Adjustment Act, Chapter 32, r.s.c. 1959, relative to the recipients of more than one federal pension be cancelled as the limitations imposed therein are considered to be no longer realistic.

Mr. Pennell was sympathetic to our recommendations and on April 7, 1966 he wrote to me saying that a copy of the brief had been sent to officials in the Department of Finance. He noted with particular interest, recommendation (c) above, that certain allowances were not included in the computation for pension benefits.

As stated in our discussion on January 30th, the need for a pension increase, recommendation (a) above, is more serious than ever. There has been a general movement upwards in salaries since the last adjustment was made to pensions of retired members of the RCMP, civil service, Armed Forces and Public Service, or their dependents in 1959, and there has been an undeniable increase in the cost of living. As living expenses continue to rise the plight of the pensioner becomes most difficult.

The following examples of several of the pensioners of the RCMP demonstrate the hardships they are facing:

RCMP PENSION CONTINUATION ACT

Rank Held	Pensionable Service	Annual Pension	Effective Date	Pension Increase	Total
Cst.	20 years 214 days	\$548.50	1.10.37	\$175.56	\$724.06
Cst.	20 years	548.50	1.10.38	175.56	724.06
A/Cpl.	20 years 95 days	573.10	17.12.38	183.48	756.58
Cst.	20 years	548.50	25. 4 .39	175.56	724.06
Cst.	20 years 223 days	548.50	3. 9 .39	175.56	724.06

The Canada Pension Plan will help RCMP pensioners in the years to come, as it will help all Canadians, but it will have little effect, if any, on those individuals who because of their age do not have the opportunity to contribute to it or will it help others, to any extent, who because of their age will not be permitted to pay into it for very long.

An example of those who fall within the 'gap years' we spoke of at our meeting is reflected in the following case. After our discussion on Monday, January 30th I received the following letter from a retired Sergeant of the RCMP who engaged in the Force in the year 1929 and took his discharge in 1949: "As pensioned member of the RCMP Sgt. as of Sept. 1949 I find myself in need of a job—I have exhausted the possibilities around here so I know that I should make an effort to contact you as you may be in a position to hear of any openings which escape me here. Although I am 62 years of age I am in good health and would be able for quite a few years to pull my weight.

My wife is confined to hospital and will probably be there for the rest of her life otherwise I have no ties here and could move around should an opportunity arise.

Would you kindly let me know if you can be of any assistance as my pension is only \$96.17 a month which does not go very far these days."

We will do everything we can to find work for this man who holds the RCMP Long Service Medal and so must have done good work for the Force and for Canada during his service years.

Special Joint Committee on the Public Service

Some glimmer of hope may be in the wind for retired members of the public service in general as the Honourable E. J. Benson on January 10th, 1967, filed a Government Notice of Motion in the House of Commons directing the Special Joint Committee on the Public Service of Canada to inquire into and report on the pension scale of pensions paid to retired civil servants or their dependents. Upon learning of this we sent a telegram to Mr. Benson requesting equal

consideration for the pensioners of the RCMP, Armed Forces and the Public Service in general or their dependents.

Automatic Increases as Cost of Living Rises

With reference to our request that legislation be passed allowing for automatic increases to the pensions paid to the RCMP, etc. As the cost of living rises, recommendation (c) above, in our view the Parliament of Canada has created such a precedent in the Canada Pension Plan and in recent amendments to the Old Age Security Act. If this provision was made part of the several acts governing the payment of pensions to retired members of the RCMP, civil service, etc., or their dependents there would be automatic adjustments in pensions and the difficulties of bringing in new legislation, such as, the Public Service Adjustment Act, 1959, Chapter 32, might not be required in future years.

Incorporation of Allowances for Pension Purposes

With reference to recommendation (c) dealing with the \$300.00 Marriage Accommodation Allowance paid to members of the RCMP from 1951 to 1966 and never incorporated into pensions, it is noted that when the last pay increase was given to the RCMP in October, 1966 one of the features of the raise was the incorporation of the marriage allowance for pension purposes. We are happy that this has finally been done. We wonder if it came about as a result of our recommendation. Many members of the Force when proceeding to pension between 1951 and 1966 asked why this allowance should not be included in their pension for after all it was considered income and they had paid income tax on it.

When it was learned that the allowance was going to be included for pension purposes I wrote to Mr. Pennell as he had expressed interest in this very point when I had the opportunity of discussing our brief with him one year ago.

Under date of December 6, 1966, Mr. Pennell's executive assistant, Mr. E. R. M. Griffiths, replied as follows:

"Reference is made to my letter of October 4th, 1966, regarding certain proposals you advanced in respect to the incorporation of marriage allowance for pension purposes.

The Solicitor General has looked into this matter and it is reported that under the R.C.M.P. Pensions Continuation Act and the R.C.M.P. Superannuation Act, pensions payable to ex-members of the Force are based upon pay and such "allowances" as are prescribed or determined by the Governor-in-Council to be counted for pension purposes. The Marriage Accommodation Allowance of \$300.00 per annum, which came into effect in 1951, was not allowed by the Governor-in-Council as an allowance for pension purposes and consequently was never included in the calculation of pensions.

On October 1st, 1966, the Marriage Accommodation Allowance was incorporated into the pay of members of the Force. As a result, it is now included for pension purposes for those members of the Force who retire on or after that date. Insofar as I am aware, however, there is no existing statutory authority which would permit such an allowance to be counted for pension purposes with

retroactive effect, and I have been given to understand that it would be contrary to normal practice to seek authority to make any such regulation retroactive."

It will be noted that Section 67(1) of the RCMP Pension Continuation Act states that the amount of pensions *shall be based on pay and allowances*, and Section 67(2).... "The Governor-in-Council may by regulation determine the amount of allowances for pension purposes...". This Association is not requesting a retroactive regulation for something that did not exist but we are asking for incorporation into the computation of pensions an allowance which we feel we were unjustly deprived of. If the principle of incorporating the marriage accommodation allowance for pensions purposes can be adopted in 1966, surely it has existed since 1951 and those retiring to pension since 1951 should receive any benefits derived therefrom. As a matter of interest I understand that in the Armed Forces certain allowances, i.e., medical, uniforms, have been considered in the computation of pensions for some years and since October 1966 certain other allowances have been added.

Termination of Pensions on Death

As discussed we have received complaints as to why pension entitlements under the RCMP Pension Continuation Act are "for life" and cease from the day following the death of the recipient, whereas the pension entitlement under the RCMP Superannuation Act are payable until the end of the month during which the pensioner dies.

The discrimination between the two acts on this point has caused concern particularly as we have been informed that in some cases money has had to be returned to the government resulting in embarrassment to the families of the deceased pensioners.

This matter was taken up with the RCMP about one year ago and Commissioner Geo. B. McClellan was in complete agreement with our representations. However, it was pointed out that in order to bring the change about the Act would have to be amended. The Treasury Board officials agreed to give consideration to the amendment the next time the RCMP Pension Continuation Act was being amended which was not expected at the present session of Parliament.

It is indeed regrettable that there should have to be any delay in making such a minor change the results of which would be most humanitarian.

May I thank you for the interview of January 30th and say that I look forward with anticipation to a resolving of the several matters raised within a reasonable period of time.

APPENDIX "CC"

DEPARTMENT OF NATIONAL DEFENCE

STATISTICAL TABLES FOR THE CANADIAN FORCES SUPERANNUATION ACT AND DEFENCE SERVICES PENSION CONTINUATION ACT FOR THE FISCAL YEAR
1 APRIL 1965-31 MARCH 1966

APPENDIX "A": Contributors retiring because of age and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—
Classified according to amount of annuity or pension and years of pensionable service.

APPENDIX "B": Contributors retiring on account of age and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—
Classified according to amount of annuity or pension and age at retirement.

APPENDIX "C": Contributors retiring on account of disability and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31,
1966—Classified according to amount of annuity or pension and age at retirement.

APPENDIX "D": Statement of Canadian Forces Superannuation Account Standing as at the end of the Fiscal Year 1965-66.

APPENDIX "E": Statement of Canadian Forces Superannuation Account Transactions during the Fiscal Year 1965-66.

APPENDIX "F": Canadian Forces Superannuation Act—Statement of Annuities, Annual Allowances, Cash Termination Allowances and Return of
Contributions, as at the end of the Fiscal Year 1965-66.

SUB-APPENDIX 'A'

CANADIAN FORCES SUPERANNUATION ACT

DEFENCE SERVICES PENSION CONTINUATION ACT

Contributors retiring because of age and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of annuity or pension and years of pensionable service

Amount of Annuity or Pension	Years of Pensionable Service						TOTAL
	10-14	15-19	20-24	25-29	30-34	35-	
\$							
0-360.....							
361-720.....							14
721-1,080.....	12						46
1,081-1,440.....	17						94
1,441-1,800.....	4						120
1,801-2,160.....	5						155
2,161-2,520.....	2						164
2,521-2,880.....							132
2,881-3,240.....							83
3,241-3,600.....							88
3,601-3,960.....							61
3,961-4,320.....							74
4,321-4,680.....							73
4,681-5,040.....							52
5,041-5,400.....							32
5,401-5,760.....							18
5,761-6,000.....							22
6,001-6,360.....							15
6,361-6,720.....							4
6,721-7,070.....							6
7,071-7,430.....							6
7,431-7,790.....							12
Over 7,790.....							
TOTALS.....	40	177	428	516	97	13	1,271

SUB-APPENDIX 'B'

CANADIAN FORCES SUPERANNUATION ACT
DEFENCE SERVICES PENSION CONTINUATION ACT

Contributors retiring on account of age and becoming entitled to immediate annuities April 1, 1965 to March 31, 1966—Classified according to amount of Annuity or pension and age at retirement

Amount of Annuity or Pension \$	Age at Retirement												TOTALS
	45	46	47	48	49	50	51	52	53	54	55 and Over		
0—360.....													
361—720.....													
721—1,080.....													
1,081—1,440.....													
1,441—1,800.....													
1,801—2,160.....													
2,161—2,520.....													
2,521—2,880.....													
2,881—3,240.....													
3,241—3,600.....													
3,601—3,960.....													
3,961—4,320.....													
4,321—4,680.....													
4,681—5,040.....													
5,041—5,400.....													
5,401—5,760.....													
5,761—6,000.....													
6,001—6,360.....													
6,361—6,720.....													
6,721—7,070.....													
7,071—7,430.....													
7,431—7,790.....													
Over 7,790.....													
TOTALS.....	45	8	80	91	122	613	116	96	19	17	64	1,271	

SUB-APPENDIX 'C'

CANADIAN FORCES SUPERANNUATION ACT

DEFENCE SERVICES PENSION CONTINUATION ACT

Contributors retiring on account of disability and becoming entitled to immediate annuities or pensions April 1, 1965 to March 31, 1966—Classified according to amount of Annuity or Pension and age at retirement

Amount of Annuity or Pension §	Age at Retirement					TOTALS
	Under 35	35-40	41-45	46-50	51-55	
0-360.....						1
361-720.....				7		112
721-1,080.....	66	30	9	14		223
1,081-1,440.....	87	80	42	28	1	176
1,441-1,800.....	21	69	57	28		173
1,801-2,160.....	5	68	72	53	2	155
2,161-2,520.....	1	22	77	54		101
2,521-2,880.....		3	44	30	5	69
2,881-3,240.....		4	30	14	7	28
3,241-3,600.....		1	6	3	4	15
3,601-3,960.....		2	6			6
3,961-4,320.....			5	2		6
4,321-4,680.....			3	2	1	
4,681-5,040.....			3	2		5
5,041-5,400.....				4		4
5,401-5,760.....				1		1
5,761-6,000.....						
6,001-6,360.....						
6,361-6,720.....				1		1
6,721-7,070.....						
7,071-7,430.....						
7,431-7,790.....						
Over 7,790.....						
TOTALS.....	180	280	354	241	21	1,076

SUB-APPENDIX 'D'

1965-66

STATEMENT OF CANADIAN FORCES SUPERANNUATION ACCOUNT STANDING AS AT THE END OF THE FISCAL YEAR 1965-66

Balances in Accounts				Total	
	Navy	Army	Air		
Current.....	64,986,841.63	170,711,083.91	172,976,789.37	408,654,714.91	
Arrears.....	3,712,411.38	16,282,857.75	14,532,558.38	34,527,827.51	
Transfer from other pension funds.....	1,157,221.50	1,727,020.17	4,926,830.47	7,811,072.14	
Interest.....	52,762,558.07	157,048,812.61	150,716,572.38	360,527,943.06	
Government Contributions.....	114,030,215.12	308,884,737.55	314,833,651.08	737,748,604.35	
Sub-Totals.....	236,629,247.70	654,654,511.99	657,986,402.28	1,549,270,161.97	
Less:					
Annuities and Annual Allowances.....	11,076,164.08	46,864,748.20	33,518,871.05	91,459,783.33	
Cash Termination Allowances and Return of Contributions.....	20,200,215.98	49,370,573.57	40,775,211.29	110,346,000.84	
Contributions Transferred.....	62,187.16	671,925.77	267,841.82	1,001,954.75	
Unclaimed Accounts.....	44,213.65 cr	335,914.09 cr	17,292.92 cr	397,420.66 cr	
Estate Tax and Succession Duties.....	466.65	2,517.36	3,724.86	6,708.87	
Undelivered Cheques.....	10,942.72 cr	26,324.38 cr	19,096.43 cr	56,363.53 cr	
Sub-Totals.....	31,283,877.50	96,547,526.43	74,529,259.67	202,360,663.60	
Net—Totals.....	\$205,345,370.20 cr	\$558,106,985.56	\$583,457,142.61 cr	\$1,346,909,498.37 cr	
Actuarial Liability Contributions and Interest to date.....				837,300,323.65 cr	
				\$2,184,209,822.02 cr	

SUB-APPENDIX 'E'

1965-66
STATEMENT OF CANADIAN FORCES SUPERANNUATION ACCOUNT TRANSACTIONS DURING THE FISCAL YEAR 1965-66

Pension Contributions	Navy	Army	Air	Total
Current.....	5,488,796.03	12,888,086.46	14,021,773.90	32,378,656.39
Arrears.....	253,937.64	624,052.89	796,321.91	1,674,312.44
Transfer from other funds.....	51,664.65	108,909.59	178,011.27	338,626.51
Interest.....	7,766,778.06	21,284,309.56	22,177,116.75	51,228,204.37
Government Contributions.....	9,819,985.80	23,240,876.06	25,729,008.54	58,789,870.40
Sub-Totals.....	23,361,162.18	58,146,275.56	62,902,232.37	144,409,670.11
Less:				
Annuities and Annual Allowances.....	3,528,619.93	12,106,463.09	11,112,947.11	26,748,030.13
Cash Termination Allowances and Return of Contributions.....	1,739,610.72	3,629,232.28	4,793,179.36	10,162,022.36
Contributions Transferred*.....	6,256.95 cr*	45,606.98*	28,260.75*	67,610.78
Unclaimed Accounts.....	2,202.59 cr	6,512.32 cr	269.78 cr	9,044.69 cr
Estate Tax and Succession Duties.....				
Undelivered Cheques.....	4,371.54 cr	9,789.27 cr	8,706.19 cr	22,867.00 cr
Sub-Totals.....	5,255,339.57	15,765,000.76	15,925,411.25	36,945,751.58
Net-Totals.....	\$18,105,822.61	\$42,381,274.80 cr	\$46,976,821.12 cr	\$107,463,918.53 cr
Actuarial Liability Contributions and Interest to date.....				48,623,443.92 cr
				\$156,087,362.45 cr

*Navy—Amount reported in 1964-65 adjusted by \$10,332.51 credit in 1965-66.

*Army—Amount reported in 1964-65 adjusted by \$28,786.43 credit in 1965-66.

*Air—Amount reported in 1964-65 adjusted by \$30,338.44 credit in 1965-66.

SUB-APPENDIX 'F'

1965-66

CANADIAN FORCES SUPERANNUATION ACT

STATEMENT OF ANNUITIES, ANNUAL ALLOWANCES, CASH TERMINATION ALLOWANCES AND RETURN OF CONTRIBUTIONS,
AS AT THE END OF THE FISCAL YEAR 1965-66

Benefits	Navy	Army	Air	Total
Annuities to contributors.....	1,505	6,381	4,962	12,848
Annual Allowances to dependents.....	99	553	413	1,065
Return of contributions (including estates).....				
Cash Termination Allowances to contributors.....	2,873	4,662	5,024	12,559
Cash Termination Allowances to dependents.....				
Totals.....	4,477	11,596	10,399	26,472

First Session—Twenty-seventh Parliament

1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 33

THURSDAY, MARCH 16, 1967

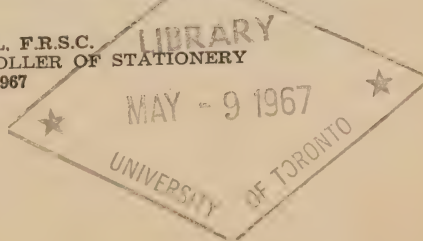
Respecting

PENSIONS

WITNESSES:

Mr. H. D. Clark, Director of Pensions and Social Insurance Division;
Mrs. J. C. Martin, Superannuation Branch, Department of Finance;
Mr. E. E. Clarke, Chief Actuary, Insurance Department.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

Joint Chairmen:

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*)

Mr. Cameron,

Mr. Choquette,

Mr. Davey,

Mr. Denis,

Mr. Deschatelets,

Mrs. Fergusson,

Mr. Hastings,

Mr. O'Leary (*Antigonish-
Guysborough*)

Mr. MacKenzie,

Mrs. Quart—12.

Mr. Ballard,

Mr. Bell (*Carleton*),

Mr. Berger,

Mr. Chatterton,

Mr. Chatwood,

Mr. Crossman,

Mr. Émard,

Mr. Éthier,

Mr. Fairweather,

Mr. Hymmen,

Mr. Knowles,

Mr. Lachance,

Mr. Langlois (*Chicou-
timi*),

Mr. Lewis,

Mr. Madill,

Mr. McCleave,

Mr. Orange,

Mr. Patterson,

Mr. Sherman,

Mr. Simard,

Mr. Tardif,

Mrs. Wadds,

Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, March 16, 1967
(54)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 3.47 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Deschatelets, Fergusson, MacKenzie (6).

Representing the House of Commons: Messrs. Bell (Carleton), Knowles, Lachance, Madill, McCleave, Patterson, Richard (7).

In attendance: Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Mrs. J. C. Martin, Chief Staff Services and GSM IP Division, Department of Finance; Messrs. E. E. Clarke, Chief Actuary, W. Riese, Senior Actuary, Department of Insurance.

The Committee questioned the departmental representatives on various points.

A paper "Private Pension Plans in Canada" submitted by the Department of Finance was accepted to be printed as an appendix to the proceedings. (*See Appendix DD*)

At 4.15 p.m., the meeting went *in camera* to adjourn at 4.45 p.m., to the call of the Chair.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, March 16, 1967

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, with us today are Mr. H. Clark of the Department of Finance, Mr. E. Clarke of the Insurance Department, and Mrs. J. Martin representing the Superannuation Branch. Mr. H. Clark will you come forward? The intention this afternoon is to allow members of the Committee to ask any questions they might have in connection with any of the suggestions which have been made in the past few meetings by organizations or individuals who appeared before us. The meeting is now open for questions.

Mr. KNOWLES: Mr. Chairman, I wonder if it is fair to ask Mr. Hart Clark, in his capacity as a technician, whether he can indicate to us which of the general approaches that have been made to deal with this problem is the most feasible? I have in mind suggestions that have been made of a flat increase of X dollars to everyone; a suggestion of a percentage across the board and there have been variations of the percentage. Now, I do not want to involve Mr. Clark in a statement of policy but I would plead that it is not unfair to ask which of these approaches would be most feasible.

Senator MACKENZIE: In this connection could I ask whether, in terms of our consideration of conditions of superannuated people—retired people—we should be restricted, in a sense, to the length of service they had given and the contribution to the fund they had made and their, more or less, legal rights under the existing circumstances, or whether we should take into consideration as well *ex gratia* payments because of need and because of a desire to help worthy people?

Mr. H. D. CLARK (*Director, Pensions and Social Insurance Branch, Department of Finance*): Well, Mr. Chairman, splitting these questions down into parts I would say probably the most feasible plan, that is, administratively the most simple to apply and the one that could be most quickly applied, is not the one that takes into consideration the aspects that Senator MacKenzie mentioned. I suppose the flat rate increase, regardless of the size of the pension and related only to the time of retirement, might certainly be the simplest. Whether that would be the most equitable, taking everything into consideration, is another question. But, the greatest—

Mr. KNOWLES: When I use the word “feasible” I do not mean just expedient, I mean feasible in terms of equity and in terms of its effect on any future changes we might make.

Mr. CLARK: Looking at this, it depends on what you have in mind for the future. But, knowing what has been done in the case of other countries which have gone through various stages, I may say initially they provided benefits only

to the very low pensions. Then, after a while, they provided increases to all pensioners who retired prior to a certain date, but limited the increase to a certain figure. In other words, just for example, in Canada we might have provided that the maximum increase would be \$500; so that everyone in that group would get some increase with a maximum of \$500. Then the two countries which I have in mind, which adopted that approach as an interim stage, subsequently went to the present basis whereby a certain percentage is applied to all pensions, including the increases which had previously been authorized. Thus, their present state was reached in three stages and they now have the relatively simple approach of applying certain percentages across the board. That is done regardless of the size of the pension but depending on the date of the retirement.

Senator MACKENZIE: Is this percentage related to the cost of living index or the wage increase of a similar post?

Mr. CLARK: In some countries, Senator MacKenzie, it is related to the cost of living. In others there is a relationship to a wage index. In the provinces, as you will have noted from the paper we presented, Quebec I think is the only one that approached it in the same way as Parliament did here in 1958 and 1959. Most of the provinces have tended to help just the very low pensions. But British Columbia has provided varying increases up to a certain maximum but made it available to all levels of pension. You get a different picture across the country.

Mr. KNOWLES: What factors do you think, if this is not an unfair question, we should take into consideration?

Mr. CLARK: I was a member of the advisory committee which recommended to the former government the formula which was adopted in 1958. The members of this committee, and I certainly shared their views, felt that there should be recognition of length of service and up to certain limits at least, the level of earnings; so that those who retired in the earlier days should have greater compensation, as it were, than the more recent ones to go on pension. In other words, this committee, of which I was a member, was quite against a simple flat rate approach.

Mr. KNOWLES: Would you think we should again pay for any such increase out of consolidated revenue rather than to try to attach it to the fund in any way?

The JOINT CHAIRMAN (*Mr. Richard*): This is a difficult question, Mr. Knowles, for Mr. Clark to answer.

Mr. KNOWLES: I think that is for him to say. I will not be offended if he does say it is too difficult.

Mr. BELL (*Carleton*): We are a public service committee and we should understand the difference between ministerial responsibility and the public service responsibility, and we are taking Mr. Clark into fields of the type of advice which he might tender to a minister. I really do not think we should ask him.

Mr. KNOWLES: That is, of course, what was done the last time.

Mr. CLARK: It was paid out of consolidated revenue, yes.

Senator MACKENZIE: What about this view that if the interest or dividend rate were increased from 4 per cent to 5 per cent, it could be paid out of revenues?

Mr. CLARK: Senator MacKenzie, Mr. Bryce, my deputy minister, is, I believe, coming on Tuesday to speak on that very point to this Committee. I really should not say anything at this time.

Mr. BELL (*Carleton*): I wonder why the Minister is not here to answer questions?

The JOINT CHAIRMAN (*Mr. Richard*): Everybody has a copy of this document, Superannuation Plans of Provincial and Foreign Governments which was tabled. It is now an appendix, and also the paper Private Pension Plans of Canada, as requested. Are there any questions members want to ask to elaborate them?

Mr. CLARK: Mr. Chairman, I have one minor correction to make in the second paper, namely, the one entitled Private Pension Plans in Canada, at the top of page 14. It started off by saying:

In 1963 the pension commission of Ontario . . .

That should have read: "In 1965 . . ." It was a study related to 1963 statistics but it was published in 1965.

Senator MACKENZIE: I have forgotten, but did you include this type in of pension any reference to the pension plans of universities? I ask that question only because they have had a good deal of varied experience in trying out various schemes.

Mr. CLARK: The universities would be included without being separated in these over-all figures.

Senator MACKENZIE: There is no separate consideration given?

Mr. CLARK: Not in this study.

Senator MACKENZIE: That is what I thought.

Mr. BELL (*Carleton*): With respect to the plans elsewhere you did not include Australia, and this point may have been raised during my absence in another committee. This was set forth in the brief of the Public Service Alliance. Did you check that, Mr. Clark?

Mr. CLARK: There is one very good reason why I did not include it. Quite apart from the fact that it was not specifically requested, a review of the Australian superannuation legislation has shown it to be one of the most complicated. You speak about our act being complicated; well, the Australian act is much more so! I hesitated even to start to review the provisions of the plan for it has been going through a number of revisions lately.

I suppose one could say that it comes closest to what we call a money purchase plan. In other words, the employee puts up so much money each year in return for which there is an expectation of a certain pension, and when he comes to retire the state puts up its contribution at that time. Over a relatively short period of time covered by the last actuarial review, the interest rates of the fund in which the assets were invested turned out to produce a higher yield than had been anticipated and so it was possible both to cut back the contribution rates

and increase certain benefits, the bases on which these had originally been calculated having been found to be related to a lower interest rate than that actually experienced. Now, it is possible that Mr. Ted Clarke has reviewed the actuarial basis of this plan and can throw further light on it. But really I have found it a plan so unlike any of ours, not only in the government but in the private field in Canada, that it is not easily compared in this study.

Mr. BELL (*Carleton*): You have refreshed my mind that some months ago I looked at it and I had the act in front of me, and I had the same difficulty.

Senator MACKENZIE: Mr. Chairman, this is as complicated a problem as any. It is even more complicated to me, at least, when I listen to the representatives of the services—the armed forces and the RCMP—because, while you may think of a member of the civil service as being in service until he reaches age 65 or has 35 years service, or what you will, the period of employment, I gather, of members of the armed forces is a much shorter period—an amazingly much shorter period. So, the kind of pension scheme you might envisage for the civil service seems to be inadequate, or not quite suitable, for those in the armed forces. I would suspect, when considering members of these organizations that we would have to consider them in different ways and make different recommendations about them, depending on whether what I am saying is realistic or makes sense.

Mr. CLARK: Well, Senator MacKenzie, the tendency over the last 20 to 25 years, and the objective, has been to bring the basic formulae of these three plans—that is, the civil service, the armed forces and the RCMP—in line. The only difference is that the members of the armed forces and RCMP can go out on an immediate pension at a much younger age whereas, unless I am disabled, I cannot go out—

Senator MACKENZIE: I have this in mind. It may be that in some respects a member of the armed forces—a pilot, for instance—may after 20 or 25 years service, cease to be serviceable, if I may use that word. This would not be true in the same sense of a person in the civil service. A person retiring after 20 years in the armed forces at the age of 39—we have had an illustration before us—might then very well find other lucrative employment.

Mr. CLARK: That is correct.

Senator MACKENZIE: So, the situations could be rather different.

Mr. KNOWLES: How was this handled in 1958 and 1959?

Mr. CLARK: In 1958 and in 1959 we had—and we still have, for that matter, I believe—six different basic pension formulae depending on the service to which a person belonged. The armed forces and the RCMP could have pensions based on the final day's pay, the last year's salary, the best three years and so on, whereas, the civil service tended to be on the best ten-year average.

Mr. KNOWLES: Did I make myself clear? I have in mind the increases that were provided in 1958 and 1959. Was there any difference?

Mr. CLARK: Yes; related to these different formulae, a smaller increase was given to those whose pension benefits were calculated on the most favourable formula. In other words, the armed forces officer who retired on a pension based

on his last day's pay would get a smaller increase than the civil servant who retired on the same day but whose pension was based on the ten-year average.

Mr. KNOWLES: Was there any difference because of age?

Mr. CLARK: No, no; that is the only difference.

Senator MACKENZIE: It is based on length of service. In other words, it is 2 per cent for each year of service. Was it 2 per cent of 20 years service in the armed services?

Mr. CLARK: Yes, that would produce a 40 per cent pension.

Senator MACKENZIE: Yes, and the other would produce a 70 per cent pension.

Mr. CLARK: On 35 years that is correct, but then the armed forces officer could go into other employment. He could go into the civil service and build up a pension.

Senator MACKENZIE: Maybe and maybe not.

Mr. CLARK: Yes.

Senator CAMERON: Mr. Chairman, on this point, part of the armed services advertising to get people into the forces is that if you get in at 19, say, you can retire at 39 or 40 with a pension. This sounds fine when you are 18 or 19 but, in the course of events, that is about the time families are the most expensive. I know lot of officers who have retired after 20 years service at 45, or even a little later, and they are having a pretty tough time because no one wants them at that age. I can name dozens of officers from colonels down who have pensions they find inadequate for educating their families and they find it very difficult to get satisfactory work at this time. Has this come to your attention very often in the course of this analysis?

Mr. CLARK: Well, they certainly do bring this out, particularly those, of course, who are not able to get good employment in their later years.

Senator CAMERON: There are lots of them, I have been surprised at how many of them there are in that category.

Mr. BELL (*Carleton*): May I ask either of the gentlemen whether the calculation has been made of what the cost would be of re-calculating all pensions to the six year average?

Mr. E. E. CLARKE (*Chief Actuary, Actuarial Branch, Insurance Department*): Mr. Riese tells me it is about \$20 million to \$25 million.

Mr. BELL (*Carleton*): Per annum?

Mr. CLARKE: No, this is a lump sum; it is the present value of the extra annual benefit resulting from bringing those that are now on the 10-year average to the six year average.

Mr. BELL (*Carleton*): Which would give a potential liability to the fund of \$25 million?

Mr. CLARKE: Yes, at the present time.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator MACKENZIE: This may not be a proper question, but I think we were asking ourselves when we met last week whether any draft proposals were being prepared with respect to these problems because of their complicated nature, so that, in a sense, we might sit in judgment on them to decide whether this one, or that one, or the other one was the most suitable. I suspect this is something for the department and the ministers to produce when they are in a position to do it, if they want to do it, and it may be our function as a Committee to come up with our own.

The JOINT CHAIRMAN (*Mr. Richard*): I hope that members of the Committee will not depend entirely on proposals to come from departments, but that those who have sat here all this time—some of us, at least—will have some proposal to make—even a broad proposal. I have been expecting some to come out of our discussions.

Mr. KNOWLES: Ours would not compare with those that would come out of the department.

The JOINT CHAIRMAN (*Mr. Richard*): Well, at least they could be criticized, and they would form a basis for appreciation just as well. I am pretty sure that we will criticize anyway whatever proposal may come from the department. I was wondering whether members of the Committee have any intention of suggesting proposals which will enable officials of the department to estimate them, or criticize, them if necessary.

Senator MACKENZIE: I have some feelings about it, Mr. Chairman, but they are not much more than feelings at the moment.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Ted Clarke is here today. On previous occasions members have heard the briefs of associations commenting on the different features of the fund, and I was wondering whether there are any questions that could be directed to him. Or are all the members satisfied now that they have all the information they want from Mr. Ted Clarke?

Senator DENIS: But you must have the names and the addresses for the number of still living retired persons whose pension was so small that they accepted a lump sum in final settlement rather than a monthly pension?

Mr. CLARK: This is permitted under the legislation; I would have to ask Mrs. Martin if any have done so.

Mrs. J. MARTIN (*Superannuation Division*): Very, very few.

Mr. CLARK: Mrs. Martin says very few have taken that opportunity.

Mrs. MARTIN: Very few have done it, because it is only when the pension is really small that it is possible, and pensions are usually greater than that.

Senator DENIS: Do you have the number of those retired persons still living who have accepted a lump sum?

Mrs. MARTIN: No, we have not.

Senator DENIS: You do not have the number, and you do not know?

Mrs. MARTIN: No, we do not know whether they are alive or not.

Mr. KNOWLES: How could they know?

Senator DENIS: But you must have the names and the addresses for the settlements.

Mr. KNOWLES: Of the ones who died?

Senator DENIS: No, those who are still living.

Mr. KNOWLES: I think the point Mrs. Martin was making is that once a person has accepted a lump sum the department has no further interest in keeping that person's name and address.

Senator CAMERON: Mrs. Martin said, Mr. Chairman, that it is only when the pension is very low that they can take the lump sum. What is the limit of this?

Mrs. MARTIN: It is \$10 a month.

Senator CAMERON: One hundred and twenty dollars a year?

Mrs. MARTIN: Yes.

Mr. CLARK: The main point here is that a person must have five years' service before he can get a pension at all, and very few of those people would have a pension as low as \$10 a month.

Mr. KNOWLES: Mr. Chairman, I liked your suggestion that we might make some concrete proposals and have the officials give us their technical views about them; but I think either we should have time to work out our suggestions and bring them to another meeting or, perhaps, it is something that we should first deal with in camera. I would not want to shock the nation with the size of the increase I might recommend.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any further questions?

Mr. KNOWLES: The Senators that sit with us are not the kind to break a confidence.

Mr. PATTERSON: I was just asking: What does "in camera" mean?

Senator DENIS: There is another question I would ask. Do you have the number of retired persons receiving pensions who are not entitled to the guaranteed income, or the old age security pension?

Mrs. MARTIN: There are 87 per cent of our pensioners who are of an age where they could draw old age security payments.

Senator DENIS: That is old age security, but the recent tax legislation goes further than that.

Mrs. MARTIN: I do not have that number.

Senator DENIS: You do not have that number, but 87 per cent of the pensioners are in a position to take advantage of that.

Mr. LACHANCE: This means that people who are 68 years of age—

Senator DENIS: At the present time.

Mr. LACHANCE: Could you tell what the percentage will be in 1969 when this old age pension will be granted to persons of the age of 65?

Mrs. MARTIN: We have just projected it to the end of 1967 when it will go up another 3 per cent.

Mr. BELL (*Carleton*): At December 31, 1967, it will be 90 per cent?

Mrs. MARTIN: Yes.

Senator CAMERON: Mr. Chairman, I thought I saw in the press within the last week a statement that in the first months of this payment it was estimated that 644,000 of the pensioners would qualify for the additional benefits under old age security. Is that right?

Mr. CLARK: This is for the guaranteed income.

Senator CAMERON: Yes, 644,000.

Mr. CLARK: But this, of course, is across the country.

Senator CAMERON: Yes.

Mr. CLARK: What we would have to know would be the number whose pensions are less than \$360, and over the old age security eligibility.

Mr. KNOWLES: You would also need to know what other income they might have.

Mr. CLARK: Yes, and other income too; but we just do not know that.

The JOINT CHAIRMAN (*Mr. Richard*): But you do know that 87 per cent just now are eligible for \$75 a month. Are there any other questions?

Mr. KNOWLES: I hope that the gentlemen and Mrs. Martin do not feel that we have not made much use of their time today. We are so close to policy we obviously have to have—

The JOINT CHAIRMAN (*Mr. Richard*): Shall this paper, Private Pension Plans in Canada, be made an appendix to our proceedings?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): When does the Committee want to meet?

Senator MACKENZIE: Could we agree to meet briefly now and toss a few ideas back and forth Mr. Chairman?

The JOINT CHAIRMAN (*Mr. Richard*): Yes, in camera.

APPENDIX "DD"

PRIVATE PENSION PLANS IN CANADA

This memorandum has been prepared in response to the request by the Special Joint Committee on the Public Service for a paper which would permit Members to compare the provisions of the federal Public Service Superannuation Act with private pension plans in Canada.

The paper relating to a survey of pension plans of 1960, prepared by the Labour Division of the Dominion Bureau of Statistics and presented to the Special Joint Committee of the Senate and the House of Commons appointed to consider and report upon the Canada Pension Plan on December 15, 1964, is reproduced below because of the excellent way in which it described the private pension plan situation at that time.

Excerpts from a more up-to-date survey made by the Ontario Pension Commission of the pension plans in Ontario follows this DBS paper. The results of a national survey by that Bureau is at present being compiled but since they are not yet available, the Ontario survey will give Members an indication of the latest trends among private pension plans in Canada.

Appendix A1 of the Proceedings of the Joint
Committee on the Canada Pension Plan

Introduction

Private pension plans in Canada have a comparatively short history. One of the earliest plans was introduced in 1870 for Federal Civil Servants. Four years later the Grand Trunk Railway inaugurated a plan for their employees. Although records are scanty for this early period in the history of private pension plans in Canada, it is known that the oldest plans were introduced mainly by government, railroad and financial institutions.

Interest in old age security in Canada increased gradually after the turn of the century. This widening interest was manifested fairly early with the introduction in 1908 of the Annuities Act marking the beginning of federal legislation in the field. This Act was designed to assist Canadians to make private provision for their old age through the offices of the Government Annuities Branch.

The growth in the number of pension plans was comparatively slow until 1940, when wartime conditions provided impetus for expansion. Production demands during World War II tended to focus employer attention on personnel problems. Labour was at a premium, and in order to meet heavy production schedules, management employed every possible means to encourage higher productivity. Furthermore, this labour shortage, coupled with a wage ceiling, led employers to place greater emphasis on working conditions and improved benefits to attract and hold their work force. Pensions therefore became one of the vehicles for providing an earnings supplement while at the same time holding the line on wages.

The number of pension plans continued to grow at this accelerated pace during the post-war period. Expanded industrialization in Canada

over the past two decades brought with it changes in the economy which tended to create a wider interest in pension planning. Increased concentration of ownership and the resultant growth in the number of large firms provided an instrument through which pension funds could be accumulated. Furthermore, the ever-expanding numbers of wage-earners in the economy tended to focus greater attention on the problems of workers laid off because of age and created wider interest in and concern for improved security for older workers.

From the employers' viewpoint there was a need for a systematic retirement policy. Pension plans permitted impartial retirement of workers who reached a selected age, and relieved the employer of the moral responsibility for retaining older employees whose industrial efficiency may have been impaired by age. Introduction of pension plans by employers also was probably influenced by federal legislation that made contributions to approved pension funds deductible for income tax purposes. Employees' interest in their future security has been reflected in the increasing frequency with which pension provisions have been among the more active issues in collective bargaining. This wider interest in all forms of social security created a climate of opinion favourable for the growth of pension programmes.

In response to this increased interest in pension plans, by November 1960, there were nearly 9,000 private pension plans in existence in Canada covering almost 2 million workers.¹ These plans were found in firms of all sizes. A total of 230 pension plans claimed a membership of 1,000 or more workers; 55 of these plans had memberships of 5,000 or more people. But pensions were not confined to the larger employers, since the survey found that over 5,000 plans were established by firms each with a membership of less than 15 employees.

The wide range in size of establishments, together with a diversity of factors peculiar to individual establishments, created many divergent requirements to be considered in the design of these pension plans. Plans appropriate for small firms may be quite inadequate for large firms. The unit costs of some benefits could conceivably be prohibitive for small firms whereas in large firms these costs, when shared by greater numbers, can be provided at appreciably lower rates. In other instances, firms engaged in seasonal activities, e.g., construction, may have difficulty designing a plan since the work force tends to vary sharply in size due to seasonal factors. These difficulties would not apply to firms with low labour turnover rates and comparatively stable work forces.

This review will be confined to the main features of pension plans which will be discussed under the following headings:

- (1) Basic categories of plans
- (2) Contributions
- (3) Coverage
- (4) Types of Benefits
- (5) Eligibility for Benefits
- (6) Vesting

¹ Pension Plans, Non-Financial Statistics, 1960, DBS Cat. No. 74-505.

(7) Pension Benefit Levels

(8) Integration with Federal Old Age Security Benefits.

Basic Categories of Plans

Broadly speaking, pension plans can be divided into two main categories—underwritten plans and trustee plans. In the former type, contributions are transferred to an underwriter, usually an insurance company, or the Government Annuities Branch of the Federal Department of Labour, which guarantees to pay whatever benefits have been bought in accordance with terms of the plan. Administration is generally in the hands of the underwriter. Although this type of plan is rather rigid in its requirements, it offers the greatest security to both employer and employee and therefore tends to be favoured by the smaller companies. The vast majority, about 86 per cent, of the private pension plans are the underwritten type but they cover less than 40 per cent of the 2 million workers participating in private plans.

Under a trustee plan contributions are put into a trust fund established by the employer and administered by him or by a trust company. The annual contributions are deposited with the trustee, who holds all monies until an employee's retirement at which time a pension may either be paid from the fund directly or purchased outright from an insurance company or the Annuities Branch.

The trustee type of plan, managed by individual trustees, has certain limitations. All risks, such as exceptional longevity among beneficiaries, must be borne by the fund instead of being merged in a larger pool of risks carried by the Annuities Branch or by insurance companies. The fund may be protected from the risk of longevity if it is used to buy annuities for employees as they retire. However, some uncertainties remain due to variations in the mortality rate of participants prior to retirement, or in the labour turnover rate. Therefore this type of plan is best suited to larger companies with work forces large enough to create funds that can easily absorb these risks.

Although only 14 per cent of all private pension plans are of the trustee type, according to a D.B.S. survey these covered 1.1 million workers, some 60 per cent of all workers covered by private plans. Furthermore the total assets held by trustee plans were nearly \$4,600 million in 1963 compared with the \$2,200 million of pension plan assets held by insurance companies and the Government Annuities Branch.

Over the past few years a wider market for trustee pension plans has been created through the development of plans more suitable for smaller employers. This has been done through the expedient of the "pooled" or "classified" funds which combine contributions of a number of unrelated employers into a central fund managed by a corporate trustee. This type of plan opens the way for smaller companies to combine their assets and participate in the diversity, security and yield previously available only to much larger concerns. The success of this development may be measured by the increased number of trustee arrangements with firms having fewer than 50 employees. Trustee plans for these small employers rose from 132 in 1957 to 568 in 1962 according to latest figures available.²

²"Trustee Pension Plans, Financial Statistics 1957, and Trustee Pension Plans, Financial Statistics, 1962," DBS Cat. No. 74-201.

Contributions

Pension plans may be classified as either "Contributory" or "non-contributory" depending on the source of contributions to the fund. In the former type both the employer and employee contribute for the employee's ultimate benefit, whereas in the non-contributory plan the employer bears the entire burden of cost. Non-contributory plans have certain advantages for the employer in that they are more economical to administer since the employer is likely to have more control of its management. On the other hand, contributory plans have the advantage of making employees conscious of the costs of their pensions. Also from labour's viewpoint, this type of plan increases the financial independence of the employee and is likely to provide him with a larger pension and greater vested rights in the fund.

The contributory type of pension plans predominate in Canada. Out of a total of nearly 9,000 plans surveyed by D.B.S. in 1960 all but approximately 600 were the contributory type. These contributory pensions, at that time, had a total active membership of 1.5 million participants whereas 0.4 million participants were recorded in the non-contributory plans.³

The contribution rates for employees who participate in these contributory plans vary widely according to the benefits provided. A survey of pension plans⁴ showed that employee contributions ranged from 3½ per cent to 7½ per cent of annual earnings. The most common rate was 5 per cent of earnings, found in nearly three-quarters of the contributory plans and was the rate paid by more than ½ of the 1.5 million workers who participated in these plans. About 25 per cent of the participants were in plans that called for a 6 per cent contribution and less than 10 per cent of the participants paid 4 per cent of their income. At the bottom end of the scale, relatively few, some 91,000 members paid 3½ per cent or less into their pension funds.

One of the usual determinants of the rate of pension an individual will ultimately receive is the number of years of contributions made by him or on his behalf after the start of the plan. Credit for years of service prior to the commencement of the plan is of particular concern to workers who are already close to retirement age when the plan is first introduced. Since private pension plans in Canada are of relatively recent origin this provision is a significant one. Over 40 per cent of private pension plans provide for purchase of past service benefits.

Past service benefits are usually financed solely by the employer. If the plan is registered for income tax purposes, the Department of National Revenue requires the past service liability to be liquidated systematically. It may be paid by a lump sum payment or by instalments over a pre-determined period.

Coverage

The subject of coverage gives rise to such questions as: "which employees are permitted to join the plan?" "under what circumstances are they excluded from membership?" "what conditions if any, must be fulfilled before membership in a plan is accepted?"

³ "Pension Plans, Non-Financial Statistics, 1960" *op. cit.* p. 10.

⁴ *Ibid.* p. 12.

In non-contributory plans employees are included at the discretion of the employer. The question of which employees have options to join the plan therefore applies primarily to contributory plans since the participating employee must make contributions. Participation in contributory plans is usually optional for employees of the firm at the time the plan is inaugurated. However, for new employees membership may be either voluntary or compulsory and can vary according to sex. The table below shows the distribution of the various combinations of voluntary and compulsory membership provisions found in contributory pension plans in Canada.

ADMISSION TO MEMBERSHIP OF NEW EMPLOYEES

Combination		No. of Contributory Plans	Percentage
Male	Female		
Compulsory	Compulsory	1,959	23.6
Voluntary	Voluntary	5,644	68.0
Compulsory	Voluntary	251	3.0
Compulsory	Not eligible	111	1.3
Voluntary	Compulsory	1	—
Voluntary	Not eligible	269	3.3
Not eligible ^a	Compulsory	9	0.1
Not eligible ^a	Voluntary	23	0.3
Not eligible ^a	Not eligible ^a	33	0.4
Total		8,300	100.0

Source: "Pension Plans, Non-Financial Statistics, 1960" Op. Cit. p. 34.

Some pension plans do not impose any restrictions on employees to prevent their participation but allow them to become members upon joining the firm. In other plans, however, eligibility is subject to either the completion of a designated period of service, or the attainment of a stated minimum age, or a combination of the two. In a 1960 survey⁷ it was found that of the nearly 2 million people participating in pension plans, 45 per cent were in plans that set no restrictions on memberships. Another 16 per cent were members of plans that based eligibility on the completion of a designated period of service; for a further 9 per cent eligibility for participation was subject to the completion of a period of service and/or the attainment of a minimum age. The years of service required for eligibility rarely exceed 5 years, and for over half of the members subject to this condition the service requirement was one year.

Minimum age as a factor for eligibility was found in slightly over half of the nearly 9,000 pension plans in force during 1960, and in most cases certain service requirements were included as well. Very few of these plans set the age limit beyond age 30 and in the majority of plans the limits were 25 year of age or less—with some variations according to sex.

An additional restriction found in a number of plans was a maximum age limit beyond which participation was prohibited. In a few plans this was the

^a Membership in plan is confined to females or is closed to new males.

^a Membership in plan is not available to new employees.

⁷ "Pension Plans, Non-Financial Statistics, 1960" Op. Cit.

only restriction to membership. However, for approximately 3,000 pension plans eligibility was subject to a maximum age provision combined with either years of service, or minimum age, or a combination of both. The net effect of this maximum age provision is that it tends to discriminate against older workers and to limit their opportunities for employment.

A fairly common restriction to membership found in many pension plans is the specific exclusion of female employees. This restriction was reflected in the findings of a survey which showed that in establishments where plans existed, nearly three-quarters of the male employees were active participants, whereas only slightly more than half of the female employees were members. Generally speaking most of the difference may be attributable to the limitations on women's participation common in non-contributory plans. In addition, however, as can be seen from the table above, membership was closed to female employees in some 380 contributory plans as well. Furthermore, where participation in a pension plan was voluntary the incidence of women who elected not to join was relatively high. Consequently the same survey showed that 30 per cent of the women in establishments with contributory plans were either permanently ineligible to participate or, where membership was voluntary, elected not to join.

Type of Benefits

Every pension plan contains a formula by which the rate of pension for each participant is accurately determined. There is a wide variety in formulae used, although the majority show a general similarity. The two main types of pension plans are the "money purchase" and "unit benefit". The "money purchase" formula defines both employee and employer contributions as a percentage of salaries; the amount of pension is determined by the amount of annuity such contributions will buy. A "unit benefit" formula defines the amount of pension, and the contributions are determined by the cost of providing this amount of pension, although the employee's contribution, if any, is usually a fixed percentage of his earnings.

The following variations of the unit benefit plan are designed to relate pension benefits to earnings:

- (1) Final earnings—a percentage of the member's earnings at the time he retires, for each year of service.
- (2) Average final earnings—a percentage of average earnings during a designated number of years immediately prior to retirement, for each year of service.
- (3) Average best earnings—a percentage of average earnings during a designated period of best earnings, for each year of service.
- (4) Average earnings (career average)—a percentage of average earnings over the entire period of a member's participation in the plan, for each year of service.

Private pension plans incorporate the following adaptations of either the unit benefit or money purchase type of plan:

- (1) Profit sharing pension plan—a money purchase type of plan. The employer allocates a percentage of profits to the plan, or a nominal percentage of the total payroll of the members of the plan if the

employer is operating without a profit. The member may be required to contribute a stated percentage of his earnings.

- (2) Composite plan—a combination of a unit benefit type and a money purchase type of plan. The employer purchases a pension of the unit benefit type and the member contributes a stated percentage of his earnings which purchases an additional pension of the money purchase type.
- (3) Flat amount type of plan—the amount of pension is either a fixed dollar amount, or the unit of pension is a fixed dollar amount for each year of service.

Of the private pension plans in force in Canada in 1960 over 60 per cent were of the money purchase type. However, these were concentrated largely among the smaller companies since they covered only 13 per cent of the nearly 2 million workers participating in private plans. On the other hand nearly 75 per cent of the members in private pension plans were covered by unit benefit plans.

Of the nearly 2800 unit benefit plans recorded in 1960 nearly 2400 were designed to provide benefits calculated on the basis of average earnings; a total of 415 plans provided benefits calculated on the basis of earnings attained during the final years before retirement. Final earnings plans are designed to provide a built-in correction factor to offset any future decline in the purchasing power of the dollar up to the time of retirement. Consequently, the accurate assessment of the future costs for these plans depends upon the precision with which the actuaries predict future experience.

Eligibility for Benefits

The primary criteria for eligibility for benefits from a pension plan is the attainment of a given retirement age. The most common retirement age in pension plans operative in Canada was found to be 65 for men and 60 for women. The sex differential in retirement ages has been the subject of a great deal of discussion. There is some doubt as to whether a lower retirement age for women was justified since women on the average outlive men. This age differential, in part, may stem from the unfounded prejudice that women are incapable of gainful activity beyond a certain age which is lower for them than for men. In recent years, however, there are indications that the traditional five-year differential between male and female retirement ages is disappearing.

Comprehensive data regarding retirement provisions in pension plans are not available. An indication of the general practice in this regard may be found in a private survey conducted by the National Trust Company Limited.⁹ This survey was limited to 157 plans which were selected in such a manner as to provide "a sample of the pension plans of large Canadian employers, stratified by industry and location; but not biased towards any particular formula or financing method".¹⁰

The National Trust Company Limited study showed that out of the 157 plans surveyed, 140 plans specified that the normal retirement age for male employees was 65 years. In the majority of these plans the normal retirement age

⁹ "A Study of Canadian Pension Plans" second edition—fall 1961, National Trust Company Limited, Toronto.

¹⁰ Ibid. p. 2.

for female employees was found to be nearly equally distributed between ages 65 and 60 in the ratio of 45 per cent and 42 per cent respectively.

Most plans allow for earlier retirement on reduced pensions in the event of disability or other special circumstances. Many plans also have provisions for the extension of employment beyond the normal retirement age, but this is subject to mutual agreement between the employer and the employee.

Vesting

An important feature of any pension from the point of view of the employee, is the vesting policy. Vesting provisions establish the legal right of the employee who terminates his service prior to retirement to all or a portion of the contributions made on his behalf by the employer. The employer's contributions to most pension plans in Canada are irrevocable.

Most private pension plans in Canada have some form of vesting provision although the extent to which employees are given legal claim to the employer's contributions varies widely from plan to plan. Vesting rights are normally subject to certain limitations which usually consist of one or more of the following.

- (a) Years of service with the employer which includes service prior to becoming a member of the plan;
- (b) Years of participation in the plan;
- (c) Age of the employee when termination of employment takes place.

One of the reasons for the preponderance of pension plans with vesting is the Department of National Revenue income tax requirement which established certain standards of protection for workers in regard to vesting of the employer's contributions. For example, until fairly recently, plans registered for income tax exemption were required to provide absolute vesting of employer future service contributions at age 50, subject to a minimum period not exceeding 20 years of service or participation. Exceptions to this requirement were sometimes made under certain circumstances. In negotiated pension plans, for example, the Income Tax Division would accept a collective agreement as evidence that the plan was mutually acceptable to workers and management, even without vesting, if it otherwise met desirable standards.

Although very few pension plans have no vesting rights whatsoever, they cover 30 per cent of the 2 million members of private pension plans in Canada. At the other end of the scale immediate vesting applies to less than 5 per cent of the members. Between these two extremes delayed vesting based on years of service is available for nearly 2/3 of the members. For about 2/5 of these members the right to the employer's contribution is not complete until the individual has 20 years of continuous service. One half of these members are not subject to graduated vesting and therefore they do not acquire any vested rights until they have completed the full 20 years of employment. In some plans the vesting of the employer's contribution is available only if the employee leaves his own contributions in the plan. However, almost half of the plans with provisions permit a cash refund of employee's contributions providing the employee waives his vested right to the employer's contributions.

Pension Formulas

Information regarding benefit formulas in existing pension plans is not generally available. However, an indication of the benefits normally provided may be obtained from the National Capital Trust Company Limited study mentioned earlier. Of the 157 plans studied in this survey slightly more than one half calculated benefits on the basis of career average earnings, and more than one fifth of the plans based benefits on final average earnings. In the career average earnings plans, 37 per cent provided benefits of $1\frac{1}{2}$ per cent of earnings, per year of service; in another 31 per cent benefits were 2 per cent of earnings; and $1\frac{3}{4}$ per cent was found in a further 12 per cent of the plans. The survey also found that 23 per cent of the final average earnings plans provided pension benefits based on 2 per cent of earnings for each year of service. Benefits of 1 per cent and $1\frac{1}{2}$ per cent of earnings each accounted for 17 per cent of this type of pension plan. In the "flat amount" benefit plans, which represented nearly 12 per cent of the plans surveyed, the most common rate was \$2.50 per month per year of service. Of the money purchased plans, which represented less than one-tenth of the plans studied, 40 per cent called for a payment of 5 per cent of earnings by the employee which was matched by the employer, with the pension being determined by whatever the accumulated contributions would purchase.¹¹

Integration with Federal Old Age Security Benefits

Many private pension plans have an enabling clause which permits adjustment or modification of benefits to make allowance for Old Age Security benefits. This process of modification or adjustment is generally referred to as "the integration" with the federal Old Age Security benefits.

In 1952 when the federal Old Age Security Act was introduced companies who elected to integrate did so in three principal ways. Retiring employees were given the option of integration which took the form of a "stepped" or "notched" adjusted pension. Under this form the benefit payments were increased from the date of retirement until age 70 and reduced thereafter by the amount of the old age security pension. Thus the individual received a uniform monthly benefit throughout his retirement period. This type of integration is widely used where employees retire before age 70; some plans do not grant this option in the event of early retirement due to ill health. The adjustment is usually made on the basis of actuarial equivalence.

The second method of integration used an automatic reduction in benefits at age 70 equal to the Old Age Security payment. This process usually provided for corresponding benefit reductions as the government old age benefits increased. Pensioners under this plan do not profit from governmental increases in universal payments; the entire gain accrues to the employer since the amount paid out of the pension plan is correspondingly reduced. Finally the third principal method of integration was to reduce the benefits payable by part of the old age security benefits at age 70.

There are no statistics available to show the incidence of integration in existing pension plans in Canada. An indication of the extent to which this practice prevails can be inferred from a limited survey conducted by the federal

¹¹ Op. Cit. p. 40.

Department of Labour in 1960.¹² It was found that of the 1.5 million people employed in surveyed establishments with pension plan, 40 per cent were in establishments with plans that made provisions for integration of their benefits with the Old Age Security benefits. The survey did not indicate how many of these people were members of pension plans nor did it examine the types of integration employed.

Summary

As outlined above, private pension plans in Canada had experienced considerable growth and development over the past decade or so in response to a variety of economic and social factors. The private pension plans currently in force were developed to meet a multiplicity of requirements and were designed in accordance with the particular needs of individual employers. The result has been the creation of a body of pension plans that provides a measure of security in old age for the working population.

The main limitation of private pension plans is their restricted coverage. A high proportion of the labour force is not covered and even where pension plans are available coverage tends to be limited. In a survey conducted by the federal Department of Labour it was found that only about 70 per cent of the employees in establishments with pension plans actually were pension plan members.¹³ Some indication of the reasons for non-participation in pension plans, where available, was revealed by an earlier survey conducted by the Dominion Bureau of Statistics. This survey showed that in establishments with pensions, as many as 14 per cent of the employees were temporarily ineligible for membership, 7 per cent were permanently ineligible while a further 11 per cent who were eligible elected to stay out of the available plan.¹⁴

Generally speaking, the proportion of female membership in pension plans is lower than for men. This may be due to a number of factors. Some plans specifically exclude women employees while others make membership optional for women. In a study by the Women's Bureau of the Federal Department of Labour¹⁵ it was pointed out that young women expecting to work only until marriage, frequently are indifferent to pensions. They prefer to avoid the deduction for this purpose so as to retain a higher level of present income. Similarly, married women also tend to elect against a plan, particularly if their husbands belong to an adequate scheme.

In addition to the restricted coverage of private pension plans vesting provisions tend to be limited. Of the nearly 2 million people in Canada who are covered by pension plans less than 5 per cent were entitled to immediate full vesting of the employer's contributions if they left before retirement. As was pointed out above, 30 per cent of the members would receive none of the employer's contribution if they changed jobs before retirement. Nearly one-half of the remaining employees were required to stay under the same plan for 20 years or more in order to get all of their employer's contributions.

¹² "Working Conditions in Canadian Industry, 1960" Economics and Research Branch, Department of Labour, Canada.

¹³ "Working Conditions in Canadian Industry, 1963" Economics and Research Branch, Department of Labour, Ottawa.

¹⁴ "Pension Plans, Non-Financial Statistics, 1960" Op. Cit.

¹⁵ "Women's Bureau Bulletin" Number 1, November 1961, Women's Bureau, Department of Labour, Ottawa.

In 1965 the Pension Commission of Ontario published a non-financial survey of pension plans in that province, covering 7,476 plans which included 970,388 employee members in Ontario.

The more important characteristics of this survey have been extracted and regrouped for the members of the Committee, and appear below in tabular and descriptive form.

In Table I the surveyed plans are illustrated by the type of benefit formula used. The following is a general explanation of the benefit types:

Final earnings and final average earnings pension plans are those in which the benefit for each year of service is a fixed percentage of earnings at retirement or of the average earning of the last or best given number of years of earnings before retirement.

Career average earnings pension plans are those in which the benefit for each year of service is a fixed percentage of the earnings in *that* particular year.

Money purchase pension plans are those under which a stated sum of money is contributed for each member and is used to buy amounts of deferred annuity or are accumulated with interest and used to purchase an annuity at the time of retirement.

Flat rate pension plans are those in which the pension for each year of service is independent of earnings and is a fixed dollar and cents amount for each such year.

Profit sharing pension plans are a form of money purchase pension plan in which the employer's contribution are dependent on the profits of the enterprise and are allocated to employees according to some formula.

Composite pension plans are those which embody various provisions taken from the above major types.

TABLE I

Types of Pension Plans

Type of Benefit	Non-contributory		Contributory	
	No. of Plans	Members	No. of Plans	Members
Final Earnings and Final				
Average Earnings	167	90,816	246*	310,963*
Career Average	161	25,328	2,131	252,064
Money Purchase	136	1,214	3,391	61,046
Flat Benefit	263	144,218	85	17,228
Profit Sharing	52	3,938	175	16,150
Composite	126	19,836	543	27,587
Total	905	285,350	6,571	685,038

The federal PSSA, CFSA and RCMPSPA are in the "Final Earnings and Final Average Earning" pension plan group, indicated in Table I by the asterisks. This group, which represents only 3.3 per cent of the number of plans surveyed but 32 per cent of the employee members in Ontario, is further illustrated in Table II, by level of contributions and benefits. The federal plans mentioned above are again in the group marked with asterisks, and account for 105,619 of the employee members.

TABLE II
CONTRIBUTORY FINAL EARNINGS AND FINAL AVERAGE
EARNINGS PENSION PLANS
EMPLOYEE CONTRIBUTION

Percent of Earnings Per Year of Service	Variable		Under 3%		3-3.99%		4-4.99%	
	No. of Plans	Members	No. of Plans	Members	No. of Plans	Members	No. of Plans	Members
Not a simple percentage	5	30	—	—	—	—	1	1
Under 1%.....	1	703	2	17	—	—	1	1
1 - 1.24%.....	3	163	1	14	2	59	1	51
1.25 - 1.49%.....	2	1,029	1	17	2	119	4	142
1.50 - 1.74%.....	8	2,951	2	492	5	187	9	432
1.75 - 1.99%.....	2	773	—	—	3	181	2	23
2% and over.....	9	4,465	—	—	3	139	1	79
Total.....	30	10,177	6	520	15	685	19	729

	5-5.99%		6% and over		Total	
	No. of Plans	Members	No. of Plans	Members	No. of Plans	Members
Not a simple percentage	2	115	—	—	8	146
Under 1%.....	1	330	—	—	5	1,051
1 - 1.24%.....	20	6,746	—	—	26	7,033
1.25 - 1.49%.....	11	19,440	5	15,018	25	35,828
1.50 - 1.74%.....	68	10,595	11	5,230	103	19,867
1.75 - 1.99%.....	7	196	2	8	16	1,181
2% and over.....	24	15,781	25*	225,393*	62	245,857
Total.....	133	53,203	43	245,649	246	310,963

Table III shows the normal retirement age for the plans surveyed, and also the percentage of male and female employee members covered under each of the specified plans. The federal plans are in the classification marked with the asterisk.

TABLE III
Normal Retirement Age

	Males		Females	
	No. of Plans	Percentage of Members	No. of Plans	Percentage of Members
Not specified	63	.7	412	1.2
50 and under	3	—	4	.1
55	16	4.6	67	5.6
56-59	—	—	2	.6
60	148	2.0	2,192	14.5
61-64	11	3.9	18	18.2
65*	6,919	82.5	4,603	58.1
66-69	114	4.3	72	1.1
70	202	2.0	106	.6
Total	7,476	100.0	7,476	100.0

The vesting provisions of the 7,476 plans survey are shown in Table IV with regard to the number of years service or participation which the employee member must have in order to be eligible. There are many different forms of vesting but "full vesting", the one depicted in the Table, means that the employee, whether or not he leaves his employer after completing the required number of years, has a right to all retirement benefits provided by both his own and his employer's contributions. Retirement benefits, in the sense used, do not include a return of employer's contributions. Again the federal plans are in the group marked with an asterisk.

TABLE IV
Vesting

Years of Service or Participation for Full Vesting	No. of Plans	Members	Percentage of Members
Immediate full vesting	1,646	60,828	6.3
1-5*	337	93,524	9.6
6-10	1,136	263,101	27.1
11-15	1,295	176,566	18.2
16-20	2,573	205,178	21.1
21-25	79	10,186	1.1
over 25	31	2,026	.2
No vesting	379	158,979	16.4
Total	7,476	970,388	100.0

In table V the type funding provisions required in the plans surveys are shows, according to the following types:

Advance Funding is where the plan is in a position at any given time, usually annual to meet all its future obligations with its assets and any future income. This is the approach followed by the Federal Government with regard to its plans, as denoted by the asterisk.

Terminal Funding is where the pension benefits are provided by a lump sum payment to the plan in the year when the employee retires or otherwise ceases to be employed.

Partial Funding means a plan is funded for part of the membership or for part of the benefits.

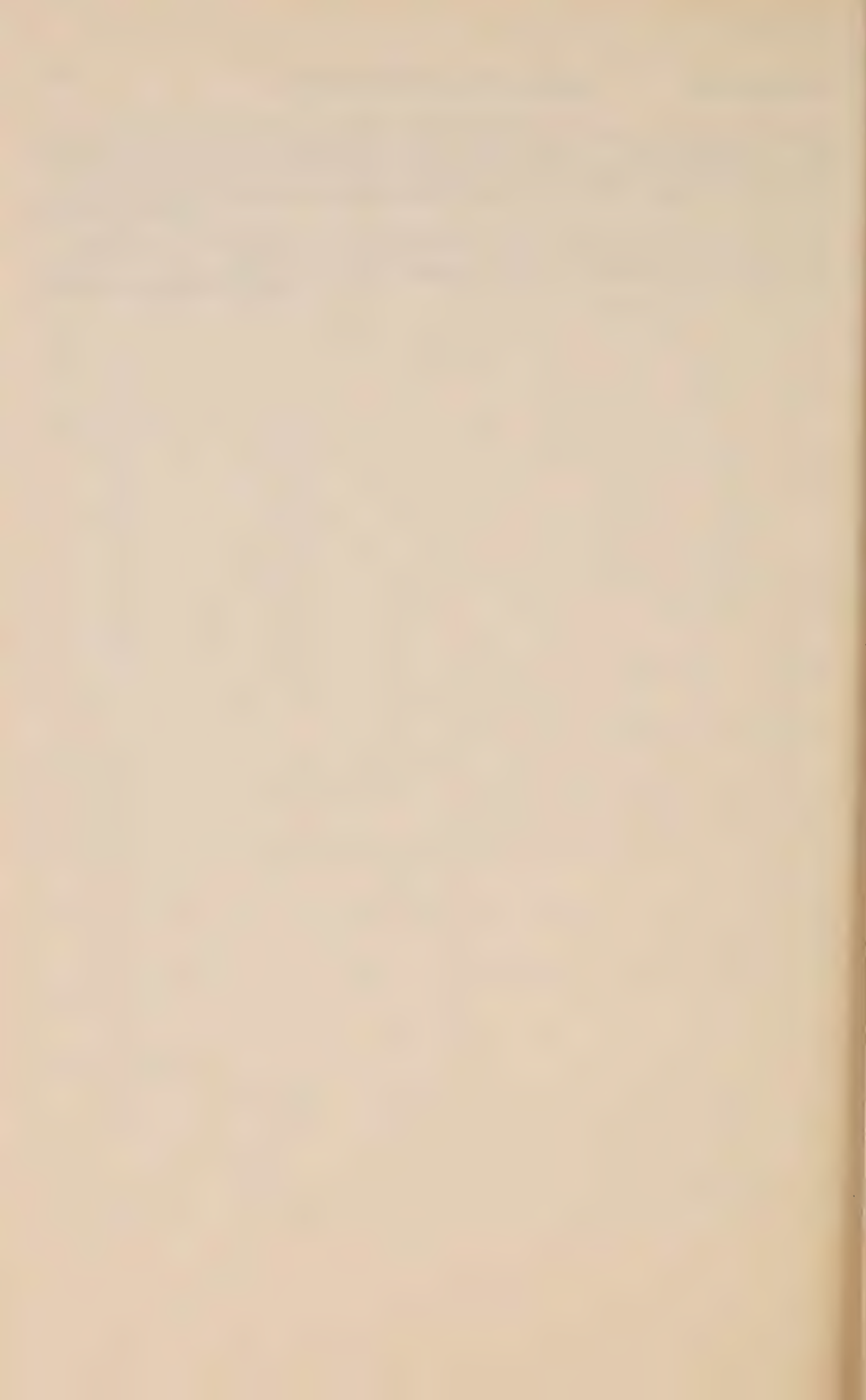
Unfunded pension plans are commonly called "pay-as-you-go", plans.

TABLE V
Funding

Type	No. of Plans	Members	Percentage of Members
Advance*	7,296	926,154	95.4
Terminal	76	13,868	1.4
Partial	6	902	.2
Unfunded	98	29,464	3.0
Total	7,467	970,388	100.0

A recent survey of the pension plans in Ontario, conducted by the Pension Commission of Ontario because of the interest shown in this matter by the Committee, indicated that of the plans selected in the sample, not one of the final earnings or final average earning pension plans, provided a better benefit than the federal PSSA.

Methods of integration varied but in all cases they were the same or less favourable to the employees, when compared with the method used for federal employees under the PSSA.



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PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

First Session—Twenty-seventh Parliament
1966-67

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

PROCEEDINGS

No. 34

THURSDAY, APRIL 6, 1967
MONDAY, MAY 8, 1967

Respecting Pensions

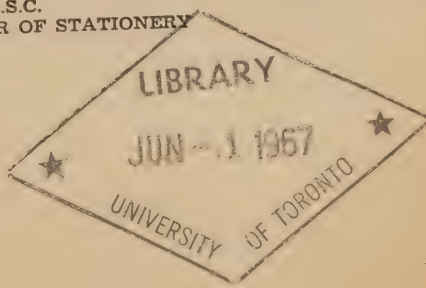
WITNESSES:

Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark,
Director of Pensions and Social Insurance Division, Department of
Finance.

INCLUDING

- a) Ninth Report to the Senate and House of Commons.
- b) Index to Appendices, Witnesses, etc.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967



SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

and

Representing the Senate

Representing the House of Commons

Senators

Mr. Beaubien (*Bedford*)
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-
Guysborough*)
Mr. MacKenzie,
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Ethier,
Mr. Fairweather,
Mr. Hymmen,
Mr. Knowles,
Mr. Lachance,

Mr. Langlois (*Chicou-
timi*),
Mr. Lewis,
Mr. Madill,
Mr. McCleave,
Mr. Orange,
Mr. Patterson,
Mr. Sherman,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

REPORT TO THE SENATE

MONDAY, May 8th, 1967.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its ninth Report as follows:

On Tuesday, January 10, 1967, your Committee was empowered to inquire into and report upon the matter of pensions paid to retired civil servants or their dependents under the provisions of the public Service Superannuation Act. At a later date, the order of reference was widened to encompass pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces. The term retired employees in this report refers therefore to retired civil servants and retired members of the R.C.M.P. and armed forces.

A total of eight meetings was held during which the Committee heard the evidence of twenty-one witnesses representing:

- The Department of Finance
- Treasury Board
- The Department of Insurance
- The Royal Canadian Mounted Police
- The Department of National Defence
- The Federal Superannuates National Association
- The Professional Institute of the Public Service of Canada
- The Public Service Alliance of Canada
- The Royal Canadian Mounted Police Veterans' Association
- The Association of Canadian Forces Annuitants.

Your Committee also received correspondence from individuals outlining various points they felt should be considered.

In its deliberations on the matter of pensions, your Committee soon realized that a general solution to the problem was not an easy one. Many factors affecting the level of certain individual pensions were isolated, thereby complicating your Committee's task even further.

The witnesses have indicated uniformly their concern for the position in which a large number of retired federal employees find themselves with fixed retirement pensions being progressively eroded, sometimes over a long period of years, under the pressures of rising living costs.

In the Committee's view, the government should do what it reasonably can to protect and preserve, or failing that, to restore in some measure the original purchasing power of the contributory pensions which, under the Public Service Superannuation Act, and similar enactments, it has provided for its retired employees.

With this consideration in mind, your Committee recommends immediate action by the government, to up-date and extend the provisions of the Public Service Pension Adjustment Act (1959). This Act provided at the time of its passage limited and partial pension adjustments to meet a portion of the rise in post-war living costs. It covered only those beneficiaries who had retired prior to

January 1, 1953: its benefits were available only to those below a pension ceiling of \$3,000 (\$1,500 for widows). Helpful though it was at the time of its passage, the Pension Adjustment Act of 1959 no longer meets the minimum justifiable requirement in the case of those former employees who retired prior to January 1, 1953; and, it makes no provision whatever for employees who have retired since that date.

The Committee recommends that any plan to improve the position of these retired employees should conform to the following requirements:—

- (a) it should be capable of quick and early implementation in the form of legislation, in the next session of this Parliament;
- (b) any adjustment in pensions should not be limited to a particular date of retirement and should be in addition to any other increase already granted under the Pension Adjustment Act of 1959;
- (c) it should maintain the principle contained in the present legislation that benefits should be related to length of service;
- (d) it should conform to the principle that any adjustment formula should take account also of the time which has elapsed since retirement;
- (e) it should take into account the increase in living costs during that period of time; and
- (f) it should increase the ceilings in the 1959 Pension Adjustment Act.

The task of the Committee was facilitated through the assistance rendered by the department representatives. In particular, your Committee wishes to acknowledge the help received from Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

REPORT TO THE HOUSE OF COMMONS

MONDAY, May 8, 1967.

The Special Joint Committee of the Senate and of the House of Commons on the Public Service has the honour to present its

NINTH REPORT

On Tuesday, January 10, 1967, your Committee was empowered to inquire into and report upon the matter of pensions paid to retired civil servants or their dependents under the provisions of the Public Service Superannuation Act. At a later date, the order of reference was widened to encompass pensions paid on account of the service of former members of the Royal Canadian Mounted Police and of former members of the armed forces. The term retired employees in this report refers therefore to retired civil servants and retired members of the RCMP and armed forces.

A total of eight meetings was held during which the Committee heard the evidence of twenty-one witnesses representing:

The Department of Finance,
Treasury Board,
The Department of Insurance,
The Royal Canadian Mounted Police,
The Department of National Defence,
The Federal Superannuates National Association,
The Public Service Alliance of Canada,
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The Association of Canadian Forces Annuitants,
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Your Committee also received correspondence from individuals outlining various points they felt should be considered.

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* * * * *

A copy of the relevant Minutes of Proceedings and Evidence (*Issues Nos. 27 to 34 inclusive*) is tabled.

Respectfully submitted,

JEAN T. RICHARD,
Joint Chairman

MINUTES OF PROCEEDINGS

THURSDAY, April 6, 1967.

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met *in camera* this day at 8.14 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Émard, Ethier, Fairweather, Knowles, Patterson, Richard, Walker (10).

In attendance: Dr. G. F. Davidson, Secretary, Treasury Board; Mr. H. D. Clark, Director, Pensions and Social Insurance, Department of Finance.

An informal discussion was held concerning plans suggested by Messrs. Bell and Knowles.

At 9.55 p.m., the meeting adjourned to the call of the Chair.

MONDAY, May 8, 1967.

(55)

The Special Joint Committee of the Senate and of the House of Commons on employer-employee relations in the Public Service of Canada met *in camera* this day at 9.12 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Choquette, MacKenzie (4).

Representing the House of Commons: Messrs. Ballard, Bell (*Carleton*), Fairweather, Hymmen, Knowles, Lachance, Lewis, Patterson, Richard, Tardif (10).

The Committee adopted the ninth report as prepared by the Sub-Committee on Agenda and Procedure.

On a motion of Mr. Bell, seconded by Mr. Knowles,

The Committee unanimously agreed to a vote of appreciation of the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard for the forthright and impartial way the business of the Committee was conducted at all times.

At 9.17 a.m., the meeting adjourned.

Edouard Thomas,
Clerk of the Committee.

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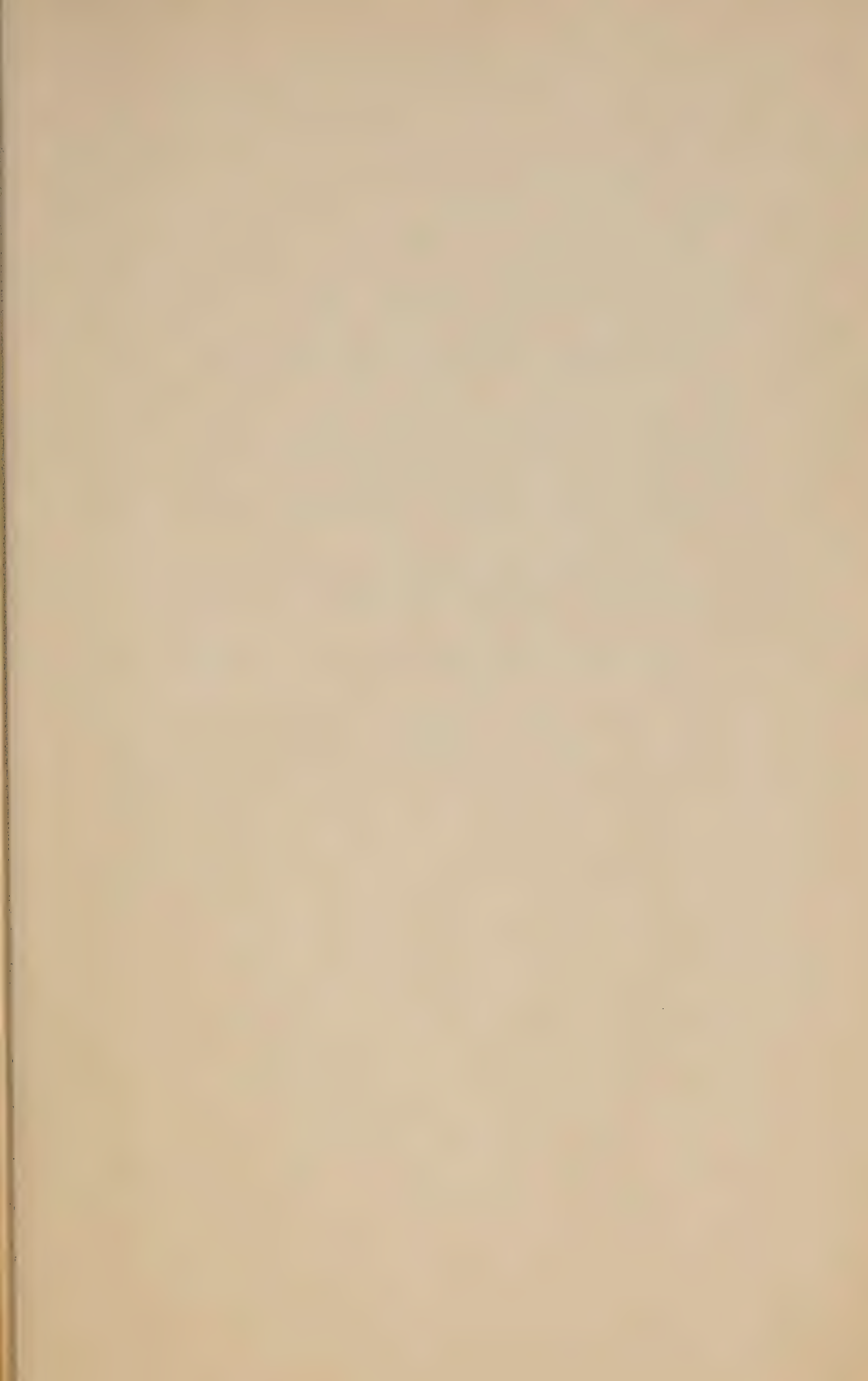
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Translated by the General Bureau for Trans-
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LÉON-J. RAYMOND,
The Clerk of the House.

